

EXHIBIT A

RELATED CASES

CIVIL MINUTES

C-07-2050

C-07-4012

Samuel Conti

DATE 11/16/07

Case Number

Judge

Title: MIGUEL CRUZ, et al. vs DOLLAR TREE STORES, INC.

Attorneys: JEREMY FIETZ, SCOTT COLE MAUREEN MCCLAIN

Deputy Clerk: T. De Martini Court Reporter: Belle Ball

Court Pltff's Deft's

(XXX) () () 1. Status Conference - Held

() () () 2. _____

() () () 3. _____

() () () 4. _____

() () () 5. _____

() Motion(s): () Granted () Denied () Withdrawn

() Granted/Denied () Off Calendar () Submitted

Order to be Prepared by: () Pltff () Deft () Court

Discovery Cutoff: _____ Pretrial Statements Due _____

Case Continued to _____ for Pretrial Conference

Case Continued to _____ for Jury Trial

Case Continued to _____ for Further Status Conference

Case Continued to _____ for _____

CASE REFERRED TO U.S. MAGISTRATE _____

for _____

Opening Briefs _____ Answer _____ Reply _____

Deemed Submitted on _____

ORDERED AFTER HEARING: Defendants to File a Motion for Summary

Judgment by January 20, 2008. Once the motion is fully briefed

The Court will set a hearing date.

The parties requested that the two cases be consolidated.

EXHIBIT B

1 Scott Edward Cole, Esq. (S.B. #160744)
 Matthew R. Bainer, Esq. (S.B. #220972)
 2 Carrie S. Lin, Esq. (S.B. #241849)
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6 Attorneys for Representative Plaintiff Robert Runnings
 and the Plaintiff Class

7 Don Edgar, Esq. (S.B. #139324)
 8 Jeremy Fietz, Esq. (S.B. #200396)
THE EDGAR LAW FIRM
 9 408 College Avenue
 Santa Rosa, California 95401
 10 Telephone: (707) 545-3200
 Facsimile: (707) 587-3040

11 Attorneys for Representative Plaintiffs John Hansen
 12 and Miguel Cruz and the Plaintiff Class

13
 14 **UNITED STATES DISTRICT COURT**
 15 **NORTHERN DISTRICT OF CALIFORNIA**
 16

17 MIGUEL A. CRUZ and JOHN D.
 18 HANSEN, et al.,

19 Plaintiffs,

20 vs.

21 DOLLAR TREE STORES, INC.

22 Defendant.

23 ROBERT RUNNINGS, et al.,

24 Plaintiffs,

25 vs.

26 DOLLAR TREE STORES, INC.

27 Defendant.

Case No.: C-07-02050 SC

CLASS ACTION

**REPRESENTATIVE PLAINTIFFS'
 SPECIAL INTERROGATORIES (SET ONE)**

Case No.: C-07-4012 SC
 (Consolidated Action)

CLASS ACTION

1 PROPOUNDING PARTY: Representative Plaintiffs

2 RESPONDING PARTY: Defendant Dollar Tree Stores

3 SET NO: One

4
5 **PLEASE TAKE NOTICE** that, pursuant to Federal Rules of Civil Procedure Rule 33(b)(3),
6 Representative Plaintiffs in the above-entitled action hereby request that you answer the following
7 special interrogatories, in full, within thirty (30) days from the date of service of this notice.
8

9 **INSTRUCTIONS**

10 In answering these interrogatories, furnish all such information as is available to you, not
11 merely such information as you know of your own personal knowledge, including, but not
12 necessarily limited to, information which is in the possession of your attorneys and/or all
13 investigators for your attorneys, and/or any investigators retained or hired by you, prior to seeking
14 legal advice, and or any investigations conducted by your supervisors, employees, and/or agents. If
15 any of the interrogatories herein cannot be answered in full after exercising due diligence to secure
16 such information, please answer to the extent possible, whether or not based on hearsay, and specify
17 the reason for your inability to answer the remainder.

18 The interrogatories set forth hereinafter are deemed to incorporate all introductory matter,
19 including, but not necessarily limited to, definitions of certain terms as set forth by Plaintiffs.

20 **YOU ARE HEREBY REQUESTED TO READ CAREFULLY ALL SUCH**
21 **DEFINITIONS.**

22 In any instance where the answer to any interrogatory is contained in [a] document(s) or
23 where you are asked to identify [a] document(s), Representative Plaintiffs request, in lieu of or in
24 addition to identification, that you attach the document(s) to your answers and indicate clearly to
25 which interrogatory each document or documents are applicable.
26
27
28

DEFINITIONS

1. The term "**Defendant**," "**You**" or "**Your(s)**" refers to the party(ies) to which these requests are propounded and any agents, employees, officers, directors, subsidiaries, affiliates, predecessor corporation(s), both present and former, including their attorneys and insurers, except to the extent that a privilege not to answer is specifically stated.

2. The term "**Class(es)**" refer(s) to each [of the] class definition(s) provided in the **Complaint** (as defined in this section, below).

3. The term "**Class Member(s)**" refer(s) to each and every one of the named plaintiffs in the above-captioned action as well as each and every person eligible for membership in one or more of the plaintiff class(es) and/or subclass(es), as described and defined in the operative Complaint(s) filed in this action and, if a consolidation or coordination of actions, the collective allegations and parties to each and every one of the included actions.

4. The term "**Representative Plaintiff(s)**" refer(s) to each and every named plaintiff identified in the operative Complaint(s) filed in this action and, if a consolidation or coordination of actions, the collective allegations to each and every one of the included actions.

5. "**Persons**" and/or "**individual(s)**" means natural persons, corporations, partnerships, sole proprietorships, unions, associations, federations, employers, or any other kind of entity or subsidiary, division and/or department thereof.

6. "**Complaint**" refer(s) to the operative (most recent version of and/or amendment to) Complaint filed in this action and, if a consolidation or coordination of actions, the collective allegations and parties to each and every one of the Included/Consolidated/Coordinated Complaints.

7. "**Document(s)**" or "**records**" shall mean a writing, as defined by Federal Rules of Evidence 1001, and shall include writings and printed matter of any kind and description, including, but not limited to: electronically-stored data, including computer disks or tapes; electronic audio or video recordings and the scripts of same; electronic or hard copy embodiments of analytical or monitoring equipment or devices; photographs; drawings; maps; sketches; plot plans; diagrams; notes; minutes and electronic recordings of oral communications; letters and memoranda; computer printouts and any hard copy representation(s) of data, information and/or other record compilations

1 which are stored by means of computer or electronic devices; logs; charts or strips of analytical or
 2 monitoring equipment; x-rays or other output of radiographic examinations; transcripts of testimony
 3 and proceedings; videotapes; films; blueprints; reports; summaries; newspaper accounts; statements;
 4 estimates; proposals and protocols; citations; orders and court pleadings. It shall also include any
 5 additional copy or duplicate of any document as described above which contains any handwriting,
 6 typewriting, notation, modification or other addition thereto of any kind, as well as any rough or
 7 preliminary draft(s) of the document. Defendant shall produce those documents and/or other tangible
 8 items sought herein whether or not created, maintained, distributed, acquired or otherwise in the
 9 possession of any predecessor corporations or business entities to the extent that said documents
 10 and/or tangible items are within the care, custody and/or control of Defendant.

11 8. For each interrogatory wherein a request is made to "identify" an individual or group
 12 or class of individuals, state with respect to such individual or group/class of individuals:

- 13 a. His, her, or its name;
- 14 b. His, her, or its known or last known home address and telephone number;
- 15 c. His, her, or its business address and telephone number and that/those of his,
 16 her, or its employer(s); and,
- 17 d. His, her, or its relationship to you.

18 9. For each interrogatory wherein a request is made to "identify" and/or "describe" any
 19 function(s) or job task(s), state with respect to such "function(s)/job task(s)":

- 20 a. The frequency with which the "function(s)/job task(s)" is to be performed;
- 21 b. The weight, if any, an individual performing that "function(s)/job task(s)"
 22 is required to lift; and
- 23 c. Whether the "function(s)/job task(s)" is/are the responsibility of other
 24 employees.

25 10. The time period covered by these requests shall be the most expansive class period
 26 defined in the **Complaint** (i.e., four years prior to the filing of the initial **Complaint**), through the
 27 present, unless otherwise specified (herein also referred to as the "class period"). Unless so
 28 specified, each and every interrogatory herein requests information made available and/or acquired
 by You and/or within Your possession, custody, or control during said period and/or generated prior

1 thereto, but remaining in effect or becoming effective at any point in time during said period and/or
2 information known or believed to exist during said period and/or in effect or becoming effective at
3 any point during said period.

4 11. The conjunctive shall also include the disjunctive and vice versa.

5 12. The singular shall also include the plural and vice versa.

6
7 **INTERROGATORIES**

8 **INTERROGATORY NO. 1:**

9 **Identify each and every Class Member.**

10 **INTERROGATORY NO. 2:**

11 **Identify each facility (by address, telephone number and/or location number, if applicable)**
12 **where any Class Member has performed work for You at any time during the class period.**

13 **INTERROGATORY NO. 3:**

14 **Identify and/or describe how You determine whether Class Members should be paid on**
15 **an overtime-exempt basis for each pay period with the class period.**

16 **INTERROGATORY NO. 4:**

17 **Identify and/or describe each task performed by Class Members that You contend is**
18 **exempt under California law.**

19 **INTERROGATORY NO. 5:**

20 **Identify and/or describe each task performed by Class Members that You consider to be**
21 **non-exempt under California law.**

22 **INTERROGATORY NO. 6:**

23 **Describe all efforts You have made to ensure that Class Members are performing more**
24 **exempt than non-exempt work for each pay period within the class period.**

25 **INTERROGATORY NO. 7:**

26 **Identify and/or describe Your policies and procedures regarding the methods by which**
27 **Class Members reported the number of hours worked for each week during the class period.**
28

INTERROGATORY NO. 8:

Identify and/or describe any and all efforts made by You to provide or permit Class Members to take meal and/or rest breaks.


INTERROGATORY NO. 9:

Identify and/or describe any and all efforts made by You to inform Class Members of the applicable test for the Executive Exemption to California's overtime laws.

Dated: December 13, 2007

SCOTT COLE & ASSOCIATES, APC

By:


Carrie S. Lin, Esq.
Attorneys for the Representative Plaintiffs
and the Plaintiff Class

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11 Attorneys for Representative Plaintiffs John Hansen
 12 and Miguel Cruz and the Plaintiff Class

13
 14 **UNITED STATES DISTRICT COURT**
 15 **NORTHERN DISTRICT OF CALIFORNIA**
 16

17 MIGUEL A. CRUZ and JOHN D.
 18 HANSEN, et al.,

19 Plaintiffs,

20 vs.

21 DOLLAR TREE STORES, INC.

22 Defendant.

23 ROBERT RUNNINGS, et al.,

24 Plaintiff,

25 vs.

26 DOLLAR TREE STORES, INC.

27 Defendant.

Case No.: C-07-02050 SC

CLASS ACTION

**REPRESENTATIVE PLAINTIFFS'
 REQUEST FOR PRODUCTION OF
 DOCUMENTS AND THINGS (SET ONE)**

Case No.: C-07-4012 SC
 (Consolidated Action)

CLASS ACTION

1 PROPOUNDING PARTY: Representative Plaintiffs

2 RESPONDING PARTY: Defendant Dollar Tree Stores

3 SET NO: One

4
5 PLEASE TAKE NOTICE that, pursuant to Federal Rules of Civil Procedure 34,
6 Representative Plaintiffs in the above-entitled action hereby demand that you identify and produce
7 therefor the following documents in your possession, custody and/or control, as described below.
8 Defendant is directed to produce the specified documents within thirty (30) days of the date of
9 service of these demands. Said production shall take place at the law offices of **Scott Cole &**
10 **Associates, APC**, located at 1970 Broadway, Ninth Floor, Oakland, California 94612.

11 Please also take notice that, pursuant to Federal Rule of Civil Procedure 34(b), Defendant
12 is required to serve a written response to this inspection demand within thirty (30) days from the date
13 of service of this demand.

14
15 **DEFINITIONS AND INSTRUCTIONS**

16 1. The term "**Defendant**," "**You**" or "**Your(s)**" refers to the party(ies) to which these
17 requests are propounded and any agents, employees, officers, directors, subsidiaries, affiliates,
18 predecessor corporation(s), both present and former, including their attorneys and insurers, except
19 to the extent that a privilege not to answer is specifically stated.

20 2. The term "**Class(es)**" refer(s) to each [of the] class definition(s) provided in the
21 **Complaint** (as defined herein).

22 3. The term "**Class Member(s)**" refer(s) to [each and every one of] the named plaintiffs
23 in the above-captioned action as well as each and every person eligible for membership in one or
24 more of the plaintiff class(es) and/or subclass(es), as described and defined in the operative
25 Complaint(s) filed in this action and, if a consolidation or coordination of actions, the collective
26 allegations and parties to each and every one of the included actions.

27 4. The term "**Representative Plaintiff(s)**" refer(s) to each and every named plaintiff
28 identified in the operative Complaint(s) filed in this action and, if a consolidation or coordination

1 of actions, the collective allegations to each and every one of the included actions.

2 5. "Persons" and/or "individual(s)" means natural persons, corporations, partnerships,
3 sole proprietorships, unions, associations, federations, employers, or any other kind of entity or
4 subsidiary, division and/or department thereof.

5 6. "Complaint" refer(s) to the operative (most recent version of and/or amendment to)
6 Complaint filed in this action and, if a consolidation or coordination of actions, the collective
7 allegations and parties to each and every one of the Included/Consolidated/Coordinated Complaints.

8 7. "Document(s)" or "records" shall mean a writing, as defined by Federal Rules of
9 Evidence 1001, and shall include writings and printed matter of any kind and description, including,
10 but not limited to: electronically-stored data, including computer disks or tapes; electronic audio or
11 video recordings and the scripts of same; electronic or hard copy embodiments of analytical or
12 monitoring equipment or devices; photographs; drawings; maps; sketches; plot plans; diagrams;
13 notes; minutes and electronic recordings of oral communications; letters and memoranda; computer
14 printouts and any hard copy representation(s) of data, information and/or other record compilations
15 which are stored by means of computer or electronic devices; logs; charts or strips of analytical or
16 monitoring equipment; x-rays or other output of radiographic examinations; transcripts of testimony
17 and proceedings; videotapes; films; blueprints; reports; summaries; newspaper accounts; statements;
18 estimates; proposals and protocols; citations; orders and court pleadings. It shall also include any
19 additional copy or duplicate of any document as described above which contains any handwriting,
20 typewriting, notation, modification or other addition thereto of any kind, as well as any rough or
21 preliminary draft(s) of the document. Defendant shall produce those documents and/or other tangible
22 items sought herein whether or not created, maintained, distributed, acquired or otherwise in the
23 possession of any predecessor corporations or business entities to the extent that said documents
24 and/or tangible items are within the care, custody and/or control of Defendant.

25 8. The words "identifying," "describing," "referring to," "relating to," "concerning"
26 or variations thereof, as used herein in connection with any category of documents, means and
27 includes all documents that discuss, constitute, memorialize, mention, summarize, reflect, refer to
28 or may provide evidence of the subject matter of such category of documents.

9. If any information called for by any discovery request herein is withheld because **You** claim that such information constitutes a privileged **document** and/or communication, state the following with respect to each **document** or communication:

- a. the date;
- b. the identity of the author or maker, including the business or legal title or position and the individual's current address, and business and residence telephone numbers;
- c. the identity of the recipient, including business or legal title or position and the individual's current address and business and residence telephone numbers;
- d. the number of pages;
- e. the subject matter;
- f. the identity of all other persons who received copies of the **document** or otherwise learned of the document or communication; and
- g. the specific factual basis of the claimed privilege.

10. If any **document** requested has already been produced pursuant to previous discovery in this litigation, state with respect to such **document**:

- a. the Bates number of the **document**, if applicable;
- b. the date of the **document**;
- c. the person who originated the **document**;
- d. the present location of the **document**; and
- e. the person in whose possession or under whose control the **document** presently is and the relationship of this "**person**" to **You**, if any.

11. The time period covered by these requests shall be the most expansive class period defined in the **Complaint** (i.e., four years prior to the filing of the initial **Complaint**), through the present, unless otherwise specified (herein also referred to as the "**class period**"). Unless so specified, each and every demand herein requests **documents** generated or acquired by **You** and/or within **Your** possession, custody and/or control during said period and/or generated prior thereto, but remaining in effect or becoming effective at any point in time during said period.

12. The conjunctive shall also include the disjunctive and vice versa.

13. The singular shall also include the plural and vice versa.

DOCUMENT REQUESTS

1
2 1. All documents referring or relating to performance evaluations, awards,
3 commendations and/or criticisms of the **Representative Plaintiffs** by any of **Your** current or former
4 employees or agents.

5 2. All documents referring or relating to communications with and/or statements by
6 any employee, contractor and/or agent of **Yours** regarding the **Representative Plaintiffs** or this legal
7 action.

8 3. A list of the facilities (by address, telephone number and/or location number, if
9 applicable) (whether or not operational and/or under **Your** control at the present time) where any
10 **Class Member** has performed work at any time during the **class period**.

11 4. All organizational charts that **identify** and/or **describe** each and every job position
12 that reported, directly or indirectly, to **Class Members**, or any of them, during the **class period**.

13 5. All documents referring or relating to any bonus and/or financial incentive
14 programs in effect during the **class period** which were intended to provide compensation to the
15 immediate supervisors of **Class Members**, or any of them.

16 6. All documents which support **Your** contention, if any, that the job tasks performed
17 by the **Representative Plaintiffs** are/were not representative of the job tasks performed by other
18 **Class Members**.

19 7. All documents which support **Your** contention, if any, that the job tasks performed
20 by the **Representative Plaintiffs** differed, in any manner considered material by **You**, from the tasks
21 **You** expect(ed) them to perform.

22 8. All documents referring or relating to **Class Members'** knowledge of the applicable
23 test for the Executive Exemption to California's overtime laws.

24 9. All documents referring or relating to **Class Members'** communications with **Your**
25 Human Resources department concerning responses on/to the "Payroll Certification" during any pay
26 period.

27 10. All documents referring or relating to any additional training you offered to **Class**
28 **Members** as a result of Store Managers' statement of non-compliance on any "Payroll Certification"

1 form.

2 11. All documents referring or relating to any disciplinary action you took against
3 **Class Members** as a result of Store Managers' statement of non-compliance on any "Payroll
4 Certification" form.

5 12. All documents referring or relating to **Your** policies and procedures for receiving
6 and reviewing **Class Members'** "Payroll Certifications" during each and very pay period.

7 13. All documents referring or relating to the job candidate hiring criteria for each and
8 every **Class Member** and/or **Class** position.

9 14. All documents referring or relating to job descriptions, lists of particular positions'
10 essential functions, task lists and/or actual duties for each and every **Class Member**.

11 15. All documents referring to or evidencing any modifications/revisions (at any time
12 during the **class period**) to **Your** job description for the Store Manager position.

13 16. All documents referring to or evidencing any modifications/revisions (at any time)
14 to **Your** job description for any Assistant Store Manager position.

15 17. All documents referring to or evidencing any modifications/revisions (at any time
16 during the **class period**) to the "Payroll Certification" form used by Store Managers.

17 18. All documents referring to or evidencing any modifications/revisions (at any time
18 during the **class period**) to the ASR (Automatic Store Replenishment) system used by **Class**
19 **Members** to order supplies.

20 19. All documents referring or relating to testing procedures for candidates applying
21 for the Store Manager position.

22 20. All time/motion studies **You** performed concerning the work of **Class Members**.

23 21. All audits **You** performed concerning the work of **Class Members**.

24 22. Copies of all video surveillance (and/or other forms of electronic or other media),
25 generated during the **class period**, which recorded any **Class Member** performing labor.

26 23. All documents referring or relating to work performed by **Class Members** for **You**
27 during the **class period**.

28

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24. All documents referring or relating to the list of tasks performed by Class Members that You contend are exempt under California law.

25. All documents referring or relating to Your expectations regarding what non-exempt duties would be performed on a regular basis by Class Members.

26. All documents referring or relating to Your expectations regarding what exempt duties would be performed on a regular basis by Class Members.

27. All documents referring or relating to claims made by Class Members, whether verbally or in writing, against You regarding allegations of unpaid hours of work and/or a failure to provide meal and/or rest periods.

28. All documents referring to or evidencing any modifications/revisions (at any time during the class period) to the Compass system for tracking time worked by Your employees.

29. All documents referring to, or evidencing any disciplinary action You took against any Class Member during the class period for exceeding his or her allotted payroll budget.

30. All documents referring or relating to efforts made by You to ensure that Class Members took meal and/or rest breaks.

31. All documents referring or relating to Your expectations regarding the number of hours Class Members would work at Your facilities.

32. All advance and/or work/time schedules, prepared at any time during the class period, which evidence Class Members' actual and/or anticipated hours of work.

33. All documents referring or relating to efforts made by You to limit or prohibit overtime work by Class Members.

34. All documents referring or relating to the methods or procedure(s) (including, but not necessarily limited to use of time keeping systems, punch clocks, written logs, verbal confirmations, register key-in procedures, swipe cards, etc.) for determining the number of hours (including overtime hours) actually and/or reportedly worked by Class Members during the class period.

35. All documents referring or relating to the procedure(s) for collecting, maintaining and securing the integrity of payroll records regarding hours worked by Class Members during the

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1 **class period.**

2 36. All documents referring or relating to the identity of individuals who have had
3 access to records of the number of hours (including overtime hours) worked by **Class Members**
4 during the **class period**.

5 37. All documents referring or relating to the identity of individuals who were
6 responsible for collecting and storing the **Class Members'** work hours during the **class period**.

7 38. All time records (including, but not limited to, wage and/or deduction statements) for
8 **Representative Plaintiffs** for work performed during the **class period**.

9 39. All time records (including, but not limited to, wage and/or deduction statements) for
10 **Class Members** for work performed during the **class period**.

11 40. All documents which support **Your** contention, if any, that some or all of the
12 allegations in the **Complaint** and/or **Class** definition(s) contained therein are inappropriate for class-
13 wide adjudication.

14 41. All documents identified in **Your** responses to Plaintiffs' Special Interrogatories,
15 served concurrently herewith.

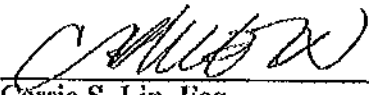
16 42. All documents referring or relating to any disciplinary action taken by **You** against
17 any person identified in **Your** Initial Disclosures.

18 43. All documents referring or relating to any financial incentive program offered by
19 **You** to any person identified in your Initial Disclosures.

20
21 Dated: December 13, 2007

22 **SCOTT COLE & ASSOCIATES, APC**

23 By:

24 
25 Carrie S. Lin, Esq.
26 Attorneys for the Representative Plaintiffs
27 and the Plaintiff Class
28

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Facsimile: (707) 587-3040

Attorneys for Representative Plaintiffs John Hansen
and Miguel Cruz and the Plaintiff Class

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

MIGUEL A. CRUZ and JOHN D.
HANSEN, et al.,

Plaintiffs,

v.

DOLLAR TREE STORES, INC.

Defendant.

ROBERT RUNNINGS, et al.,

Plaintiff,

vs.

DOLLAR TREE STORES, INC.

Defendant

Case No.: C-07-02050 SC

PROOF OF SERVICE

CLASS ACTION

Case No.: C-07-4012 SC
(Consolidated Action)

CLASS ACTION

PROOF OF SERVICE

I am over 18 years of age and not a party to the within entitled action. I am employed at and my business address is the law offices of Scott Cole & Associates, A Professional Corporation, 1970 Broadway, Ninth Floor, Oakland, California 94612. On this date, I served a copy of:

REPRESENTATIVE PLAINTIFFS' SPECIAL INTERROGATORIES (SET ONE)**REPRESENTATIVE PLAINTIFFS' REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS (SET ONE)**

on the attorney(s) for the parties to this action by the following method(s):

☒ by placing one true copy thereof enclosed in a sealed envelope, and serving same as follows:

☐ by personally delivering same addressed as shown below, to an attorney, as indicated below, at the indicated address and serving same in accordance with CCP § 1011(a) by leaving same at the attorney's office, with the envelope being clearly labeled, as below, to indicate the attorney(s) being served, with a receptionist or with a person having charge thereof;

☒ by placing same, with postage fully prepaid, in the United States Mail, addressed as indicated below. I am readily familiar with the practices of these law offices for collection and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited with the United States Postal Service in the same day in the ordinary course of business.

Maureen McClain, Esq.
Alex Hernaez, Esq.
KAUFF MCCLAIN & MCGUIRE, LLP
One Post Street, Ste. 2600
San Francisco, CA 94104

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct. Executed at Oakland, California, on December 13, 2007.


George Rafal

SCOTT COLE & ASSOCIATES, APC
ATTORNEYS AT LAW
THE WORLD SAVINGS TOWER
1970 BROADWAY, NINTH FLOOR
OAKLAND, CA 94612
TEL: (510) 891-8800

EXHIBIT C

Carrie S. Lin

From: Carrie S. Lin
Sent: Thursday, January 10, 2008 4:43 PM
To: 'Hernaez, Alex'
Cc: Legal Mgmt
Subject: Discovery

Alex,

Your proposed two week extension is fine. We will expect your client's responses on January 29th.

Carrie S. Lin, Esq.
Scott Cole & Associates, APC
Attorneys and Counselors
Telephone: (510) 891-9800
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Please visit our website at: <http://www.scalaw.com> for more information about Scott Cole & Associates, APC.

From: Hernaez, Alex [mailto:hernaez@kmm.com]
Sent: Thursday, January 10, 2008 1:47 PM
To: Carrie S. Lin
Subject: Discovery

Are you OK with that 2-week extension?

Alex Hernaez
Kauff McClain & McGuire LLP
One Post Street, Suite 2600
San Francisco, California 94104
Telephone: (415) 955-1408
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2/28/2008

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2/28/2008

EXHIBIT D

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12 *Pro Hac Vice* Attorneys For Defendant
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14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA

16 MIGUEL A. CRUZ, and JOHN D. HANSEN,
 17 individually and on behalf of all others
 similarly situated,

18 Plaintiffs,

19 v.

20 DOLLAR TREE STORES, INC.,
 21 Defendant.

CASE NO. C 07 2050 SC

22 ROBERT RUNNINGS individually, and on
 23 behalf of all others similarly situated,

Plaintiff,

24 v.

25 DOLLAR TREE STORES, INC.,
 26 Defendant.

CASE NO. C 07 04012 SC

**RESPONSE TO
 REPRESENTATIVE PLAINTIFFS'
 SPECIAL INTERROGATORIES
 (SET ONE)**

JUDGE: Hon. Samuel Conti
 COMPLAINTS FILED: April 11, 2007
 July 6, 2007
 TRIAL DATES: No dates set.

1 PROPOUNDING PARTY: REPRESENTATIVE PLAINTIFFS

2 RESPONDING PARTY: DEFENDANT DOLLAR TREE STORES, INC.

3 SET NUMBER: One

4 Defendant Dollar Tree Stores, Inc. ("Dollar Tree") submits the following
5 responses, pursuant to Rule 33(b)(3) of the Federal Rules of Civil Procedure, to
6 Representative Plaintiffs' Special Interrogatories (Set One).

7 **GENERAL OBJECTIONS**

8 These answers and objections are made solely for the purpose of this
9 action. Each answer is subject to all objections as to competence, relevance,
10 materiality, propriety and admissibility, and any and all other objections and grounds that
11 would require the exclusion of any statement if any interrogatories were asked of, or any
12 statements contained herein were made by, a witness present and testifying in court, all
13 of which objections and grounds are reserved and may be interposed at the time of trial.
14 The following answers are based upon information presently available to Defendant and,
15 except for explicit facts admitted herein, no incidental or implied admissions are intended
16 hereby. The fact that Defendant has answered or objected to any interrogatory or part
17 thereof should not be taken as an admission that Defendant accepts or admits the
18 existence of any facts set forth or assumed by such interrogatories or that such answer
19 or objection constitutes admissible evidence. The fact that Defendant has answered
20 part or all of any interrogatory is not intended and shall not be construed to be a waiver
21 by Defendant of all or any part of any objection to any interrogatory.

22 To the extent that any or all of the interrogatories call for information which
23 constitutes information or material prepared in anticipation of litigation or for trial or for
24 information or material covered by the work product doctrine or which constitutes
25 information which is privileged by virtue of the attorney-client privilege, Defendant
26 objects to each and every such interrogatory and thus will not supply or render any
27 information or material protected from discovery by virtue of the work product doctrine or
28 the attorney-client privilege.

Defendant objects to providing information regarding the so-called "Class Members." Because no class has been certified, Class Members do not exist. Moreover, Defendant contends that a class cannot be properly certified because of the facts of this case. Responses herein will be generally limited to the named plaintiffs.

The above-stated objections are hereby made applicable to each and all of these requests and are hereby, as to each and all of them, incorporated by reference as if fully set forth therein.

INTERROGATORY NO. 1:

Identify each and every Class Member.

RESPONSE TO INTERROGATORY NO. 1:

Objection: this Interrogatory is overbroad, unduly burdensome, and outside the scope of permissible discovery.

INTERROGATORY NO. 2:

Identify each facility (by address, telephone number and/or location number, if applicable) where any Class Member has performed work for You at any time during the class period.

RESPONSE TO INTERROGATORY NO. 2:

Defendant will produce documents in response to this Interrogatory. Please see response to Request for Production No. 3.

INTERROGATORY NO. 3:

Identify and/or describe how You determine whether Class Members should be paid on an overtime-exempt basis for each pay period with the class period.

RESPONSE TO INTERROGATORY NO. 3:

Objection: this Interrogatory seeks information protected by the attorney-client privilege, is overbroad, unduly burdensome, and outside the scope of permissible discovery. The premise of this Interrogatory is faulty and therefore Defendant cannot answer it fully. Defendant classifies its various job classifications as exempt or non-exempt. For example, Dollar Tree classifies its store managers as exempt. This

1 decision was made by personnel in Dollar Tree's human resources department in
2 consultation with outside counsel. Defendant considered the job duties and position
3 description of its store managers, together with all applicable laws and regulations.

4 **INTERROGATORY NO. 4:**

5 **Identify and/or describe each task performed by Class Members that**
6 **You contend is exempt under California law.**

7 **RESPONSE TO INTERROGATORY NO. 4:**

8 Objection: this Interrogatory seeks information protected by the attorney-
9 client privilege, is overbroad, unduly burdensome, and outside the scope of permissible
10 discovery. Defendant responds to this Interrogatory by directing plaintiffs to the store
11 manager job description, which has already been produced.

12 In addition, while all store managers have certain core duties in common,
13 depending upon the store in which they work store managers may have responsibility for
14 complying with state laws regarding the sale of alcohol and/or acceptance of food
15 stamps. Some store managers are training managers which gives them additional
16 responsibilities and duties with respect to training store manager and assistant store
17 managers and providing assistance to them after they are trained. Other store
18 managers have responsibility for visiting other stores and helping them with problems
19 that may arise. Some store managers have responsibilities related to surveillance
20 cameras. Depending on the location of the store, i.e. mall, strip shopping centers, stand
21 alone, and the particular landlord's requirements, the store managers have different
22 responsibilities with respect to the maintenance, upkeep and report of the store facilities
23 and areas immediately adjacent thereto and may have different responsibilities with
24 respect to their tenancy. A few of Defendant's stores sell merchandise at multi-price
25 points, thereby requiring pricing information for which the store manager is responsible.
26 Store managers in different districts have different responsibilities with respect to hiring,
27 firing, promoting and setting pay rates for the store employees.

28

INTERROGATORY NO. 5:

Identify and or describe each task performed by Class Members that You consider to be non-exempt under California law.

RESPONSE TO INTERROGATORY NO. 5:

Objection: this Interrogatory seeks information protected by the attorney-client privilege, is overbroad, unduly burdensome, and outside the scope of permissible discovery. Defendant cannot reasonably answer this Interrogatory because, inter alia, it involves an individualized inquiry as to each putative "class member." Moreover, as noted above, an inquiry of this scope is premature because no class has been certified.

INTERROGATORY NO. 6:

Describe all efforts You have made to ensure that Class Members are performing more exempt than non-exempt work for each pay period within the class period.

RESPONSE TO INTERROGATORY NO. 6:

Objection: this Interrogatory seeks information protected by the attorney-client privilege, is overbroad, unduly burdensome, and outside the scope of permissible discovery. Defendant responds to this Interrogatory by directing plaintiffs to the certification documents (both manual and automated), which have already been produced. In addition, District Managers are charged with the responsibility of ensuring that Defendant's store managers perform work consistent with their status as exempt employees.

INTERROGATORY NO. 7:

Identify and/or describe Your policies and procedures regarding the methods by which Class Members reported the number of hours worked for each week during the class period.

RESPONSE TO INTERROGATORY NO. 7:

Objection: this Interrogatory seeks information protected by the attorney-client privilege, is overbroad, unduly burdensome, and outside the scope of permissible

1 discovery. Defendant responds to this Interrogatory by directing plaintiffs to the work
2 schedules of the representative plaintiffs, which have already been produced.

3 **INTERROGATORY NO. 8:**

4 Identify and/or describe any and all efforts made by You to provide or
5 permit **Class Members** to take meal and/or rest breaks.

6 **RESPONSE TO INTERROGATORY NO. 8:**

7 Objection: this Interrogatory seeks information protected by the attorney-
8 client privilege, is overbroad, unduly burdensome, and outside the scope of permissible
9 discovery. Although not required by applicable law, Plaintiffs made their own schedules
10 and were encouraged by District Managers to take meal and rest breaks. Plaintiffs also
11 received training regarding meal and rest breaks.

12 **INTERROGATORY NO. 9:**

13 Identify and/or describe any and all efforts made by You to inform **Class**
14 **Members** of the applicable test for the Executive Exemption to California's overtime
15 laws.

16 **RESPONSE TO INTERROGATORY NO. 9:**

17 Objection: this Interrogatory seeks information protected by the attorney-
18 client privilege, is overbroad, unduly burdensome, and outside the scope of permissible
19 discovery.

20 DATED: January ²⁹, 2008

KAUFF MCCLAIN & MCGUIRE LLP

21 By: 
22 ALEX HERNAEZ

23 Attorneys for Defendant
24 DOLLAR TREE STORES, INC.
25
26
27
28

PROOF OF SERVICE BY MAIL

I am a citizen of the United States and employed in San Francisco County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is One Post Street, Suite 2600, San Francisco, California 94104. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On January 29, 2008, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

**RESPONSE TO REPRESENTATIVE PLAINTIFFS'
SPECIAL INTERROGATORIES (SET ONE)**

in a sealed envelope, postage fully paid, addressed as follows:

Scott Edward Cole, Esq.
Scott Cole & Associates, APC
The World Savings Tower
1970 Broadway, Ninth Floor
Oakland, CA 94612

Jeremy R. Fietz, Esq.
Edgar Law Firm
408 College Avenue
Santa Rosa, CA 95401

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on January 29, 2008, at San Francisco, California.


Rita I. Chavez

4831-7786-7286.2

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12 *Pro Hac Vice* Attorneys For Defendant
DOLLAR TREE STORES, INC.

13
14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA

16 MIGUEL A. CRUZ, and JOHN D. HANSEN,
17 individually and on behalf of all others
similarly situated,

18 Plaintiffs,

19 v.

20 DOLLAR TREE STORES, INC.,

21 Defendant.

22 ROBERT RUNNINGS individually, and on
behalf of all others similarly situated,

23 Plaintiff,

24 v.

25 DOLLAR TREE STORES, INC.,

26 Defendant.

CASE NO. C 07 2050 SC

CASE NO. C 07 04012 SC

**RESPONSE TO
REPRESENTATIVE PLAINTIFFS'
REQUEST FOR PRODUCTION OF
DOCUMENTS AND THINGS (SET
ONE)**

JUDGE: Hon. Samuel Conti
COMPLAINTS FILED: April 11, 2007
July 6, 2007
TRIAL DATES: No dates set.

1 PROPOUNDING PARTY: REPRESENTATIVE PLAINTIFFS

2 RESPONDING PARTY: DEFENDANT DOLLAR TREE STORES, INC.

3 SET NUMBER: One

4 Defendant Dollar Tree Stores, Inc. ("Dollar Tree") submits the following
5 responses, pursuant to Rule 34 of the Federal Rules of Civil Procedure, to
6 Representative Plaintiffs' Request For Production Of Documents And Things (Set One).

7 **GENERAL OBJECTIONS**

8 These answers and objections are made solely for the purpose of this
9 action. Each answer is subject to all objections as to competence, relevance,
10 materiality, propriety and admissibility, and any and all other objections and grounds that
11 would require the exclusion of any statement if any request were asked of, or any
12 statements contained in a document produced hereby were made by, a witness present
13 and testifying in court, all of which objections and grounds are reserved and may be
14 interposed at the time of trial. The following answers are based upon information
15 presently available to Defendant and, except for explicit facts admitted herein, no
16 incidental or implied admissions are intended hereby. The fact that Defendant has
17 answered or objected to any request or part thereof should not be taken as an admission
18 that Defendant accepts or admits the existence of any facts set forth or assumed by
19 such requests or that such answer or objection constitutes admissible evidence. The
20 fact that Defendant has answered part or all of any request is not intended and shall not
21 be construed to be a waiver by Defendant of all or any part of any objection to any
22 request.

23 To the extent that any or all of the requests call for information which
24 constitutes information or material prepared in anticipation of litigation or for trial or for
25 information or material covered by the work product doctrine or which constitutes
26 information which is privileged by virtue of the attorney-client privilege, Defendant
27 objects to each and every such request and thus will not supply or render any
28

1 information or material protected from discovery by virtue of the work product doctrine or
2 the attorney-client privilege.

3 Defendant objects to providing information regarding the so-called "Class
4 Members." Because no class has been certified, Class Members do not exist.
5 Moreover, Defendant contends that a class cannot be properly certified because of the
6 facts of this case. Unless specifically indicated otherwise below, Defendant's responses
7 will be limited to the representative plaintiffs.

8 The above-stated objections are hereby made applicable to each and all of
9 these requests and are hereby, as to each and all of them, incorporated by reference as
10 if fully set forth therein.

11 **SPECIFIC OBJECTIONS AND RESPONSES**

12 **REQUEST FOR PRODUCTION NO. 1:**

13 All documents referring or relating to performance evaluations, awards,
14 commendations and/or criticisms of the **Representative Plaintiffs** by any of **Your**
15 current or former employees or agents.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

17 Defendant has already produced documents responsive to this request.

18 **REQUEST FOR PRODUCTION NO. 2:**

19 All documents referring or relating to communications with and/or
20 statements by any employee, contractor and/or agent of **Yours** regarding the
21 **Representative Plaintiffs** or this legal action.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

23 Objection: this request is compound, unintelligible, overbroad, unduly
24 burdensome, and seeks information protected by the attorney-client privilege.

25 **REQUEST FOR PRODUCTION NO. 3:**

26 A list of the facilities (by address, telephone number and/or location
27 number if applicable) (whether or not operational and/or under **Your** control at the
28

1 present time) where any **Class Member** has performed work at any time during the
2 **class period**.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

4 Defendant will produce a list of its present and former California store
5 locations from December 12, 2004 through the present.

6 **REQUEST FOR PRODUCTION NO. 4:**

7 All organizational charts that **identify** and/or **describe** each and every job
8 position that reported, directly or indirectly, to **Class Members**, or any of them, during
9 the **class period**.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

11 Defendant will produce documents responsive to this request.

12 **REQUEST FOR PRODUCTION NO. 5:**

13 All documents **referring** or **relating** to any bonus and/or financial
14 incentive programs in effect during the **class period** which were intended to provide
15 compensation to the immediate supervisors of **Class Members**, or any of them.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

17 Objection: this request is overbroad, unduly burdensome, and seeks
18 information outside the scope of permissible discovery.

19 **REQUEST FOR PRODUCTION NO. 6:**

20 All documents which support **Your** contention, if any, that the job tasks
21 performed by the **Representative Plaintiffs** are/were not representative of the job tasks
22 performed by other **Class Members**.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

24 Defendant will produce documents responsive to this request.

25 **REQUEST FOR PRODUCTION NO. 7:**

26 All documents which support **Your** contention, if any, that the job tasks
27 performed by the **Representative Plaintiffs** differed, in any manner considered material
28 by **You**, from the tasks **You** expect(ed) them to perform.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7:

Defendant will produce documents responsive to this request.

REQUEST FOR PRODUCTION NO. 8:

All documents referring or relating to Class Members' knowledge of the applicable test for the Executive Exemption to California's overtime laws.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

Defendant will produce documents responsive to this request.

REQUEST FOR PRODUCTION NO. 9:

All documents referring or relating to Class Members' communications with Your Human Resources department concerning responses on/to the "Payroll Certification" during any pay period.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9:

Defendant will produce data in summary form regarding communications responsive to this request.

REQUEST FOR PRODUCTION NO. 10:

All documents referring or relating to any additional training You offered to Class Members as a result of Store Managers' statement of non-compliance on any "Payroll Certification" form.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

Objection: this request is overbroad, unduly burdensome, and seeks information outside the scope of permissible discovery.

REQUEST FOR PRODUCTION NO. 11:

All documents referring or relating to any disciplinary action You took against Class Members as a result of Store Managers' statement of non-compliance on any "Payroll Certification" form.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

As limited to the representative plaintiffs, Defendant has no documents responsive to this request.

REQUEST FOR PRODUCTION NO. 12:

All documents referring or relating to Your policies and procedures for receiving and reviewing Class Members' "Payroll Certifications" during each and every pay period.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12:

As limited to the representative plaintiffs, Defendant has no documents responsive to this request.

REQUEST FOR PRODUCTION NO. 13:

All documents referring or relating to the job candidate hiring criteria for each and every Class Member and/or Class position.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

Objection: this request is overbroad and unduly burdensome. Defendant will provide exemplars of documents responsive to this request.

REQUEST FOR PRODUCTION NO. 14:

All documents referring or relating to job descriptions, lists of particular positions' essential functions, task lists and/or actual duties for each and every Class Member.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

Objection: this request is overbroad, unduly burdensome, and calls for information particular to individual employees not party to this litigation. Defendant already has produced documents responsive to this request.

REQUEST FOR PRODUCTION NO. 15:

All documents referring to or evidencing any modifications/revisions (at any time during the class period) to Your job description for the Store Manager position.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15:

Defendant has no documents responsive to this request.

REQUEST FOR PRODUCTION NO. 16:

All documents referring to or evidencing any modifications/revisions (at any time) to Your job description for any Assistant Store Manager position.

RESPONSE TO REQUEST FOR PRODUCTION NO. 16:

Objection: this request is overbroad and unduly burdensome. Defendant has no documents responsive to this request within the so-called "class period".

REQUEST FOR PRODUCTION NO. 17:

All documents referring to or evidencing any modifications/revisions (at any time during the class period).to the "Payroll Certification" form used by Store Managers.

RESPONSE TO REQUEST FOR PRODUCTION NO. 17:

Defendant has no documents responsive to this request.

REQUEST FOR PRODUCTION NO. 18:

All documents referring to or evidencing any modifications/revisions (at any time during the class period) to the ASR (Automatic Store Replenishment) system used by Class Members to order supplies.

RESPONSE TO REQUEST FOR PRODUCTION NO. 18:

Objection: this request is unintelligible, outside the scope of permissible discovery and vague as to the use of the word "system."

REQUEST FOR PRODUCTION NO. 19:

All documents referring or relating to testing procedures for candidates applying for the Store Manager position.

RESPONSE TO REQUEST FOR PRODUCTION NO. 19:

Objection: this request is vague as to the use of the word "testing." Construing this request as seeking documents that test a candidate's ability to be a Store Manager, Defendant has no documents responsive to this request.

REQUEST FOR PRODUCTION NO. 20:

All time/motion studies You performed concerning the work of **Class Members**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 20:

Objection: this request is overbroad, unduly burdensome, and seeks information outside the scope of permissible discovery.

REQUEST FOR PRODUCTION NO. 21:

All audits You performed concerning the work of **Class Members**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 21:

Objection: this request is overbroad, vague as to the term "audit," unduly burdensome and outside the scope of permissible discovery.

REQUEST FOR PRODUCTION NO. 22:

Copies of all video surveillance (and/or other forms of electronic or other media), generated during the **class period**, which recorded any **Class Member** performing labor.

RESPONSE TO REQUEST FOR PRODUCTION NO. 22:

Objection: this request is overbroad and unduly burdensome.

REQUEST FOR PRODUCTION NO. 23:

All documents referring or relating to work performed by **Class Members** for You during the **class period**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 23:

Objection: this request is overbroad and unduly burdensome.

REQUEST FOR PRODUCTION NO. 24:

All documents referring or relating to the list of tasks performed by **Class Members** that You contend are exempt under California law.

RESPONSE TO REQUEST FOR PRODUCTION NO. 24:

Objection: this request is overbroad and unduly burdensome. Defendant already has produced position descriptions, which are responsive to this request.

REQUEST FOR PRODUCTION NO. 25:

All documents referring or relating to Your expectations regarding what non-exempt duties would be performed on a regular basis by **Class Members**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 25:

Objection: this request is overbroad and unduly burdensome. Defendant has already produced documents responsive to this request.

REQUEST FOR PRODUCTION NO. 26:

All documents referring or relating to Your expectations regarding what exempt duties would be performed on a regular basis by **Class Members**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 26:

Objection: this request is overbroad and unduly burdensome. Defendant already has produced position descriptions, which are responsive to this request.

REQUEST FOR PRODUCTION NO. 27:

All documents referring or relating to claims made by **Class Members**, whether verbally or in writing against You regarding allegations of unpaid hours of work and/or a failure to provide meal and/or rest periods.

RESPONSE TO REQUEST FOR PRODUCTION NO. 27:

Objection: this request is overbroad, unduly burdensome, and outside the scope of permissible discovery.

REQUEST FOR PRODUCTION NO. 28:

All documents referring to or evidencing any modifications/revisions (at any time during the **class period**) to the Compass system for tracking time worked by Your employees.

RESPONSE TO REQUEST FOR PRODUCTION NO. 28:

Objection: this request is overbroad, unduly burdensome, and outside the scope of permissible discovery.

REQUEST FOR PRODUCTION NO. 29:

All documents referring to, or evidencing any disciplinary action You took against any **Class Member** during the **class period** for exceeding his or her allotted payroll budget.

RESPONSE TO REQUEST FOR PRODUCTION NO. 29:

Objection: this request is overbroad, unduly burdensome, and outside the scope of permissible discovery. With respect to the representative plaintiffs, Defendant has already produced responsive documents.

REQUEST FOR PRODUCTION NO. 30:

All documents referring or relating to efforts made by You to ensure that **Class Members** took meal and/or rest breaks.

RESPONSE TO REQUEST FOR PRODUCTION NO. 30:

Objection: this request is overbroad, unduly burdensome, and outside the scope of permissible discovery. With respect to the representative plaintiffs, Defendant has already produced responsive documents.

REQUEST FOR PRODUCTION NO. 31:

All documents referring or relating to Your expectations regarding the number of hours **Class Members** would work at Your facilities.

RESPONSE TO REQUEST FOR PRODUCTION NO. 31:

Objection: this request is overbroad, unduly burdensome, and seeks information outside the scope of permissible discovery. Defendant has already produced documents responsive to this request.

REQUEST FOR PRODUCTION NO. 32:

All advance and/or work/time schedules, prepared at any time during the **class period**, which evidence **Class Members'** actual and/or anticipated hours of work.

RESPONSE TO REQUEST FOR PRODUCTION NO. 32:

Objection: this request is overbroad, unduly burdensome, and outside the scope of permissible discovery. With respect to the representative plaintiffs, Defendant has already produced responsive documents. Moreover, as to Runnings, Defendant will produce additional responsive documents.

REQUEST FOR PRODUCTION NO. 33:

All documents referring or relating to efforts made by You to limit or prohibit overtime work by Class Members.

RESPONSE TO REQUEST FOR PRODUCTION NO. 33:

Objection: this request is overbroad, unduly burdensome, and outside the scope of permissible discovery. With respect to the representative plaintiffs, Defendant has already produced responsive documents.

REQUEST FOR PRODUCTION NO. 34:

All documents referring or relating to the methods or procedures(s) (including, but not necessarily limited to use of time keeping systems, punch clocks, written logs, verbal confirmations, register key-in procedures, swipe cards, etc.) for determining the number of hours (including overtime hours) actually and/or reportedly worked by Class Members during the class period.

RESPONSE TO REQUEST FOR PRODUCTION NO. 34:

Objection: this request is overbroad, unduly burdensome, and outside the scope of permissible discovery. With respect to the representative plaintiffs, Defendant has already produced responsive documents. Moreover, as to Runnings, Defendant will produce additional responsive documents.

REQUEST FOR PRODUCTION NO. 35:

All documents referring or relating to the procedure(s) for collecting, maintaining and securing the integrity of payroll records regarding hours worked by Class Members during the class period.

RESPONSE TO REQUEST FOR PRODUCTION NO. 35:

Objection: this request is overbroad, unduly burdensome, and outside the scope of permissible discovery.

REQUEST FOR PRODUCTION NO. 36:

All documents referring or relating to the identity of individuals who have had access to records of the number of hours (including overtime hours) worked by Class Members during the class period.

RESPONSE TO REQUEST FOR PRODUCTION NO. 36:

Objection: this request is overbroad, unduly burdensome, and outside the scope of permissible discovery.

REQUEST FOR PRODUCTION NO. 37:

All documents referring or relating to the identity of individuals who were responsible for collecting and storing the Class Members' work hours during the class period.

RESPONSE TO REQUEST FOR PRODUCTION NO. 37:

Objection: this request is overbroad, unduly burdensome, and outside the scope of permissible discovery. Defendant has no documents responsive to this request.

REQUEST FOR PRODUCTION NO. 38:

All time records (including, but not limited to, wage and/or deduction statements) for Representative Plaintiffs for work performed during the class period.

RESPONSE TO REQUEST FOR PRODUCTION NO. 38:

Defendant has produced responsive documents and, as to Runnings, will produce additional responsive documents.

REQUEST FOR PRODUCTION NO. 39:

All time records (including, but not limited to, wage and/or deduction statements) for Class Members for work performed during the class period.

RESPONSE TO REQUEST FOR PRODUCTION NO. 39:

Objection: this request is overbroad, unduly burdensome, and outside the scope of permissible discovery.

REQUEST FOR PRODUCTION NO. 40:

All documents which support Your contention, if any, that some or all of the allegations in the Complaint and/or Class definition(s) contained therein are inappropriate for class-wide adjudication.

RESPONSE TO REQUEST FOR PRODUCTION NO. 40:

Defendant already has produced documents responsive to this request.

REQUEST FOR PRODUCTION NO. 41:

All documents identified in Your responses to Plaintiffs' Special Interrogatories, served concurrently herewith.

RESPONSE TO REQUEST FOR PRODUCTION NO. 41:

Except to the extent they have already been produced, Defendant will produce documents responsive to this request.

REQUEST FOR PRODUCTION NO. 42:

All documents referring or relating to any disciplinary action taken by You against any person identified in Your Initial Disclosures.

RESPONSE TO REQUEST FOR PRODUCTION NO. 42:

Objection: this request is overbroad, unduly burdensome, and outside the scope of permissible discovery.

REQUEST FOR PRODUCTION NO. 43:

All documents referring or relating to any financial incentive program offered by You to any person identified in Your Initial Disclosures.

RESPONSE TO REQUEST FOR PRODUCTION NO. 43:

Objection: this request is overbroad, unduly burdensome, and outside the scope of permissible discovery.

January 29, 2008

KAUFF McCLAIN & McGUIRE LLP

By: 

ALEX HERNAEZ

Attorneys for Defendant
DOLLAR TREE STORES, INC.

PROOF OF SERVICE BY MAIL

I am a citizen of the United States and employed in San Francisco County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is One Post Street, Suite 2600, San Francisco, California 94104. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On January 29, 2008, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

**RESPONSE TO REPRESENTATIVE PLAINTIFFS'
REQUEST FOR PRODUCTION OF DOCUMENTS AND
THINGS (SET ONE)**

in a sealed envelope, postage fully paid, addressed as follows:

Scott Edward Cole, Esq.
Scott Cole & Associates, APC
The World Savings Tower
1970 Broadway, Ninth Floor
Oakland, CA 94612

Jeremy R. Fietz, Esq.
Edgar Law Firm
408 College Avenue
Santa Rosa, CA 95401

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on January 29, 2008, at San Francisco, California.


Rita I. Chavez

EXHIBIT E

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MIGUEL A. CRUZ, and JOHN D. HANSEN,) Case Nos. 07-2050 SC
individually and on behalf of all) 07-4012 SC
others similarly situated,)
Plaintiffs,)
v.) ORDER SETTING
DOLLAR TREE STORES, INC.,) BRIEFING SCHEDULE FOR
Defendant.) DEFENDANT'S MOTIONS
FOR SUMMARY JUDGMENT
ROBERT RUNNINGS, individually, and)
on behalf of all others similarly)
situated,)
Plaintiffs,)
v.)
DOLLAR TREE STORES, INC.,)
Defendant.)

The Defendant Dollar Tree Stores filed Motions for Summary Judgment against the plaintiffs Miguel Cruz and John Hansen, in case number 07-2050, and against Robert Runnings, case number 07-4012, on January 19, 2008. See Cruz Docket No. 48, Runnings Docket No. 36. As there was some confusion between the parties regarding the briefing schedule for the Summary Judgment Motions, the Court hereby sets the following schedule:

Plaintiffs' Oppositions are due no later than 12:00 p.m. on Friday, February 29, 2008. Defendant's Replies must be submitted by 12:00 p.m. on Friday, March 14, 2008. A hearing on this matter

1 is set for Friday, March 21, 2008, at 10:00 a.m. in courtroom #1
2 on the 17th floor.

3
4 IT IS SO ORDERED.

5
6 Dated: February 15, 2008



7 UNITED STATES DISTRICT JUDGE
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United States District Court
For the Northern District of California

EXHIBIT F

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MIGUEL A. CRUZ, and JOHN D.)
HANSEN, individually, and on)
behalf of all others similarly)
situated,)

Plaintiffs,)

vs.)

DOLLAR TREE STORES, INC.,)

Defendant.)

ROBERT RUNNINGS, individually,)
and on behalf of all others)
similarly situated,)

Plaintiff,)

vs.)

DOLLAR TREE STORES, INC.,)

Defendant.)

COPY

Case No: C07 02050 SC

Case No: C 07 04012 SC

DEPOSITION OF ROBERT LEWIS RUNNINGS

VOLUME I, pages 1 to 383

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2
3
4
5
6
7 DEPOSITION OF ROBERT LEWIS RUNNINGS
8 VOLUME I, pages 1 to 383
9

10 DATE: December 17, 2007
11 TIME: 9:17 a.m.
12 LOCATION: Kauff, McClain & McGuire
13 One Post Street, 26th Floor
14 San Francisco, California 94104
15
16
17
18
19
20
21

22 PREFERRED REPORTERS
23 Certified Shorthand Reporters
24 19229 Sonoma Highway, #112
25 Sonoma, California 95476
707-938-9227

Reported By: Linda Vaccarezza, RPR, CSR #10201

1 Q Yes. Would you agree that higher volume 09:37:59a
2 would generally led to being more employees in 09:38:02a
3 the store? 09:38:04a
4 A In my store or any store? 09:38:05a
5 Q In the stores you're familiar with. 09:38:07a
6 A Yes. 09:38:08a
7 Q All my questions go to your personal 09:38:10a
8 knowledge. 09:38:12a
9 A Okay. 09:38:12a
10 Q And the stores that you have actually 09:38:12a
11 observed. 09:38:15a
12 A Okay. 09:38:16a
13 Q Is the Healdsburg store different than 09:38:24a
14 the Willits store? 09:38:27a
15 A Yes. 09:38:29a
16 Q In what ways? 09:38:30a
17 A My store is a racetrack store. When I 09:38:31a
18 worked in Healdsburg, it was not. 09:38:34a
19 Q And how does that impact what the store 09:38:35a
20 manager does, if it does? 09:38:37a
21 A I really don't think it does. 09:38:38a
22 Q You have different configurations of 09:38:42a
23 merchandise, shelving, correct? 09:38:45a
24 A Correct. 09:38:47a
25 Q Is it correct that a racetrack store can 09:38:48a

1 order different goods than a small store, for 09:38:54a
2 example? 09:38:57a
3 A That's what I've been told. Yes. 09:38:57a
4 Q You don't know that from personal 09:38:59a
5 experience? 09:39:01a
6 A No. 09:39:01a
7 Q Does Willits sell liquor? 09:39:02a
8 A No, we don't. 09:39:10a
9 Q Do you know that there are stores that 09:39:11a
10 sell liquor? 09:39:14a
11 A Yes. 09:39:16a
12 Q Have you ever worked in one? 09:39:17a
13 A Yes. 09:39:18a
14 Q Which ones? 09:39:18a
15 A Healdsburg and Roseland. 09:39:19a
16 Q Does that selling of liquor impact what 09:39:20a
17 the employees at the store do? 09:39:24a
18 A Aside from having one more item to 09:39:26a
19 stock, no. 09:39:29a
20 Q Isn't it right that you have to train 09:39:30a
21 employees in that situation to check age? 09:39:34a
22 A Yes. 09:39:38a
23 Q Is that unique to a liquor purchase 09:39:38a
24 situation, checking age? 09:39:43a
25 A I believe so. 09:39:44a

1 A We receive DSD from Frito Lay, Producers 09:40:36a
2 Dairy, Coca Cola and Pepsi. 09:40:41a
3 Q Producers Dairy is milk products? 09:40:43a
4 A Correct. Ice cream for our store. 09:40:47a
5 Q As to those direct vendor deliveries, do 09:40:49a
6 you have any particular responsibilities as the 09:40:54a
7 store manager? 09:40:57a
8 A Simply to check them in when they come 09:40:58a
9 in. 09:41:01a
10 Q So you need to be there when they 09:41:01a
11 arrive? 09:41:03a
12 A No. Any management can do that. 09:41:03a
13 Q So either you or your assistant store 09:41:05a
14 managers need to be present when the vendor 09:41:08a
15 arrives; is that right? 09:41:11a
16 A Yes. 09:41:11a
17 Q What do you do to check a vendor in? 09:41:11a
18 A We have a gun, it's called the prism 09:41:15a
19 gun, and we scan the merchandise and print out an 09:41:18a
20 invoice and that's it. 09:41:22a
21 Q Is that a function that's restricted to 09:41:23a
22 the management team? 09:41:26a
23 A Yes. 09:41:27a
24 Q Is Willits a stand-alone store, is it in 09:41:33a
25 a mall? What's the location? 09:41:36a

1	A	It's in a small strip center.	09:41:37a
2	Q	Has that been true of every store that	09:41:42a
3		you've worked at?	09:41:45a
4	A	No.	09:41:46a
5	Q	Healdsburg is not?	09:41:46a
6	A	Healdsburg is in a strip center as well;	09:41:47a
7		Roseland is a stand-alone.	09:41:50a
8	Q	Is Willits a high volume store?	09:41:56a
9	A	I'm not quite sure.	09:41:59a
10	Q	How would you characterize it?	09:42:05a
11	A	We are high volume in the district. By	09:42:06a
12		Dollar Tree standards, I'm not sure.	09:42:09a
13	Q	What do you mean by "high volume"? You	09:42:12a
14		have good sales compared to others in the	09:42:15a
15		district?	09:42:18a
16	A	Yes. We are the fourth.	09:42:18a
17	Q	I'll see if I can shorten my questions,	09:42:21a
18		Mr. Runnings.	09:42:23a
19		You're fourth in the district?	09:42:24a
20	A	Yes.	09:42:29a
21	Q	How does your square footage compare --	09:42:29a
22		your square selling footage compare to other	09:42:32a
23		stores, do you know?	09:42:35a
24	A	Within the district, we are the largest.	09:42:36a
25	Q	What is the dimension of your storage	09:42:44a

1 Q Was Mr. Cossolotto a store manager at 09:58:55a
2 the time of this meeting? 09:58:57a
3 A Yes. 09:58:59a
4 Q He had been a district manager, correct? 09:58:59a
5 A Yes. 09:59:02a
6 Q He's also an area manager; is that 09:59:02a
7 right? 09:59:04a
8 A Yes. 09:59:04a
9 Q Was he an area manager at the time of 09:59:04a
10 this meeting, do you know? 09:59:07a
11 A I don't know. 09:59:08a
12 Q What, generally, were people saying they 09:59:09a
13 were unhappy about? 09:59:15a
14 A The biggest thing is that we throw 09:59:17a
15 freight. We are not supposed to be throwing 09:59:21a
16 freight all the time, but it feels like that's 09:59:26a
17 what we do. 09:59:28a
18 Q Why do you say we are not supposed to 09:59:29a
19 throw freight all the time? 09:59:33a
20 A Because that's -- that's told to us, is 09:59:35a
21 that we are not supposed to -- we are supposed to 09:59:37a
22 spend a certain amount of our time -- I believe 09:59:41a
23 it's -- we are not supposed to exceed a certain 09:59:44a
24 time in the week doing physical activity. 09:59:54a
25 Sorry. That was hard to get out. 09:59:56a

1 Q Who has told you you're not supposed to 09:59:57a
2 throw freight a lot? 10:00:04a
3 A Dollar Tree. 10:00:06a
4 Q Are there Dollar Tree people who have 10:00:09a
5 told you that? Have you received written 10:00:12a
6 communications? 10:00:14a
7 A We have been told that in various 10:00:14a
8 meetings. It's on our compliance sheet. I've 10:00:17a
9 been told that by Rick. 10:00:21a
10 Q Mr. Tellstrom? 10:00:22a
11 A Yes. 10:00:24a
12 Q Mr. Tellstrom is currently your district 10:00:25a
13 manager; is that right? 10:00:27a
14 A Yes. 10:00:27a
15 Q You would agree, then, that the Dollar 10:00:27a
16 Tree policy that has been expressed to you is 10:00:37a
17 that you are not supposed to do physical work 10:00:39a
18 more than 50 percent of the time? 10:00:42a
19 A I believe it's less than that. 10:00:43a
20 Q You're not supposed to do physical work 10:00:46a
21 more than 35 percent of the time? 10:00:49a
22 A That sounds about right. 10:00:51a
23 Q Was there any other eliminate of 10:00:58a
24 unhappiness that was expressed at this meeting 10:01:01a
25 that you recall, other than throwing too much 10:01:02a

1	freight?	10:01:04a
2	A The overall expectations of Dollar Tree.	10:01:04a
3	Q What do you mean by that?	10:01:07a
4	A They expect your store to be fully	10:01:09a
5	recovered, 100 percent stocked at all times. But	10:01:16a
6	we feel that we aren't provided with enough	10:01:18a
7	staffing to do that.	10:01:22a
8	Q Do you know one way or the other whether	10:01:23a
9	there are stores that are fully recovered and 100	10:01:27a
10	percent stocked?	10:01:30a
11	A I've never seen one.	10:01:30a
12	Q How many stores have you been in?	10:01:32a
13	A The stores within the district and a	10:01:34a
14	couple of stores in the Sacramento area.	10:01:38a
15	Q What stores in the Sacramento area have	10:01:40a
16	you been in?	10:01:42a
17	A I could not specify.	10:01:42a
18	Q There's more than a couple of stores in	10:01:44a
19	Sacramento, correct?	10:01:47a
20	A Yes.	10:01:48a
21	Q You said that a couple of store managers	10:01:48a
22	called you and asked you questions following	10:01:55a
23	distribution of Exhibit 2. Who called you?	10:01:57a
24	A Jesus.	10:02:01a
25	Q Anyone else?	10:02:03a

1 A Yes. 10:06:55a

2 Q Is it correct that, generally speaking, 10:06:56a

3 store managers are expected to work five days a 10:07:00a

4 week except during the holiday season? 10:07:02a

5 A Correct. 10:07:04a

6 Q When does the holiday season start? 10:07:06a

7 A November. 10:07:10a

8 Q The very beginning of November? 10:07:10a

9 A In years past, yes. This year they 10:07:12a

10 started the six-day work week after Thanksgiving. 10:07:15a

11 Q Have you been working a six-day work 10:07:21a

12 week since Thanksgiving? 10:07:24a

13 A Aside from last week, yes. 10:07:28a

14 Q Have you told anyone you don't want to 10:07:30a

15 work a six-day work week? 10:07:32a

16 A Yes. 10:07:33a

17 Q Who have you told -- 10:07:33a

18 A Rick. 10:07:34a

19 Q -- that to? 10:07:35a

20 How did Mr. Tellstrom respond? 10:07:41a

21 A He told me I had to. That's what Dollar 10:07:43a

22 Tree expected. 10:07:45a

23 Q So you've been following his direction? 10:07:49a

24 A To the best of my ability, yes. 10:07:52a

25 Q Does this schedule that we are looking 10:07:56a

1 time? 10:10:24a

2 MR. COLE: Objection. Compound. If you can 10:10:24a

3 break it down, go ahead. If you can't, let her 10:10:30a

4 know and she'll rephrase it for you. 10:10:33a

5 THE WITNESS: No, it definitely changes very 10:10:36a

6 frequently. 10:10:37a

7 BY MS. MCCLAIN: 10:10:38a

8 Q So I can't look at any schedule 10:10:38a

9 necessarily and know that that's when you 10:10:40a

10 actually worked; is that right? 10:10:41a

11 A It's usually fairly close, but it 10:10:43a

12 definitely changes. It's subject to, you know, 10:10:45a

13 whether or not we are getting visits. So we are 10:10:50a

14 not allowed to schedule ourselves more than the 10:10:52a

15 45 hours. So if we work over 45 hours, that's 10:10:54a

16 not reflected. 10:10:58a

17 Q How do you know that you're not allowed 10:11:05a

18 to schedule yourself over 45 hours? 10:11:06a

19 A Because I've done so, and I've been 10:11:08a

20 reprimanded for it. 10:11:15a

21 Q When was the first time that that 10:11:17a

22 happened? 10:11:19a

23 A I could not tell you. 10:11:20a

24 Q Has it happened more than once that 10:11:24a

25 you've been reprimanded for that? 10:11:25a

1 Mr. Runnings, are the assistant managers with 10:13:45a
2 whom you have spoken about your unhappiness with 10:13:51a
3 Dollar Tree the assistant managers who are listed 10:14:00a
4 on this schedule? 10:14:05a

5 A Not Chris. Chris is brand new, so the 10:14:07a
6 13th was his first day. 10:14:14a

7 Q Aside from Chris, you have spoken to 10:14:17a
8 Ashley, Michael and Andrew; is that right? 10:14:23a

9 A Yes. 10:14:25a

10 Q Essentially, what have you said to them? 10:14:26a

11 A How unhappy I am. 10:14:29a

12 Q Is that all you've said? 10:14:33a

13 A How unhappy I am with the situation. 10:14:36a

14 And, you know, when they come to me with their 10:14:41a

15 concerns about not having enough help, and I let 10:14:44a

16 them know there's nothing I can do about it. 10:14:47a

17 It's Rick and Rick's superiors. So... 10:14:49a

18 Q So you've had conversations with them 10:14:53a

19 about the fact that you would like more hours in 10:14:55a

20 the store; is that right? 10:14:58a

21 A Yes. 10:14:59a

22 Q Have you generally had four assistant 10:14:59a

23 managers throughout the time that you've been a 10:15:04a

24 store manager? 10:15:07a

25 A For 2005 and '6, yes. And then they 10:15:09a

1 eliminated the fourth spot and reduced us to 10:15:14a
2 three. 10:15:17a
3 Q You're back up to four? 10:15:18a
4 A No. No. Michael is no longer employed. 10:15:19a
5 Q So Chris replaced Michael; is that 10:15:23a
6 right? 10:15:25a
7 A Yes. 10:15:25a
8 Q In 2007, how did it come to be that they 10:15:26a
9 reduced you to three? Who was "they"? 10:15:31a
10 A Dollar Tree, as a whole. 10:15:33a
11 Q How do you know that? 10:15:35a
12 A They did it, I believe, company wide. 10:15:37a
13 Actually, I don't know if it's company wide. 10:15:40a
14 They did it in California. 10:15:42a
15 Q How was that communicated to you? 10:15:43a
16 A I believe I first heard it from Rick. 10:15:44a
17 Q Have you ever seen anything in writing 10:15:50a
18 about this elimination? 10:15:51a
19 A I don't think so. 10:15:53a
20 Q What did Mr. Tellstrom tell you? 10:15:54a
21 A At the time I lost an assistant manager 10:15:56a
22 and wanted to find a replacement, and he said 10:16:00a
23 that she would not be replaced. 10:16:02a
24 Q Who was that? 10:16:04a
25 A Elizabeth Segmiller. 10:16:05a

1 Q Do you agree that the individuals who 10:16:29a
2 are best able to comment upon your actual work at 10:16:31a
3 Dollar Tree are your assistant store managers? 10:16:39a

4 MR. COLE: Objection. Calls for speculation. 10:16:42a

5 BY MS. MCCLAIN: 10:16:43a

6 Q Are they in a position, as far as you 10:16:43a
7 can observe, to have observed what you were 10:16:44a
8 doing? 10:16:49a

9 MR. COLE: Objection. Calls for speculation. 10:16:49a

10 If you can answer, go ahead. 10:16:53a

11 THE WITNESS: Yes. 10:16:54a

12 BY MS. MCCLAIN: 10:16:55a

13 Q Aside from your assistant store 10:16:55a
14 managers, are there other people that you believe 10:16:58a
15 are in a position to observe what you do at work 10:17:01a
16 and when you work? 10:17:04a

17 MR. COLE: Same objection and compound. 10:17:06a

18 Go ahead, if you can. 10:17:11a

19 THE WITNESS: Customers. Customers come in 10:17:11a
20 all the time and comment, you know, Oh, you're 10:17:14a
21 sure busy today. So I guess customers. Yeah. 10:17:16a

22 BY MS. MCCLAIN: 10:17:20a

23 Q Anyone else? 10:17:21a

24 A Rick. 10:17:22a

25 Q How often do you see Mr. Tellstrom in 10:17:24a

1 person? 10:17:29a

2 A It varies. It varies week to week. 10:17:30a

3 Q In 2007, can you give me an estimate of 10:17:37a

4 the highest amount of times he's been in your 10:17:42a

5 store per week and the lowest amount? 10:17:46a

6 A The lowest would be not seeing him at 10:17:48a

7 all; the highest would probably be four times a 10:17:50a

8 week. 10:17:52a

9 Q There have been weeks, then, in 2007 10:17:56a

10 when you haven't personally seen Mr. Tellstrom? 10:17:59a

11 A Yes. 10:18:01a

12 Q Is that a rarity? Does it happen often? 10:18:05a

13 A It happens fairly often. 10:18:08a

14 Q If Mr. Tellstrom visits you four times 10:18:12a

15 per week, to your observation, is there a 10:18:16a

16 particular reason for that? 10:18:18a

17 A No. We are his home store, so he stops 10:18:20a

18 in to do paperwork. Stuff like that. 10:18:28a

19 Q Does he have an office at the Willits 10:18:31a

20 store? 10:18:34a

21 A He shares my office. 10:18:34a

22 Q Are there times when he comes to the 10:18:36a

23 store and just does his work without interacting 10:18:37a

24 with you? 10:18:41a

25 A No. 10:18:41a

1 Q Are you the highest management person 10:19:52a
2 there 90 percent of the time? 10:19:54a
3 A Aside from when Rick or his supervisors 10:19:56a
4 are there, yes. 10:20:00a
5 Q In those normal weeks when you are 10:20:01a
6 communicating with a district manager about an 10:20:11a
7 hour of the time during the week, what kinds of 10:20:14a
8 topics are you and the district manager 10:20:16a
9 communicating about; can you give me some 10:20:19a
10 examples? 10:20:20a
11 A It's usually just him telling me what he 10:20:21a
12 wants to see get done over the course of the 10:20:24a
13 week. 10:20:26a
14 Q Such as? 10:20:27a
15 A Whether or not the schedule has been 10:20:28a
16 wrote yet, whether or not certain displays have 10:20:30a
17 been built, how certain employees may be doing. 10:20:32a
18 Q Do you hire for store 2939? 10:20:48a
19 A Yes. 10:20:51a
20 Q How many employees do you think you've 10:20:52a
21 hired since November of 2004? 10:20:55a
22 A I don't know. 10:20:57a
23 Q More than 30? 10:21:01a
24 A Yes. 10:21:01a
25 Q More than 50? 10:21:02a

1 question? If it's the same question, it's been 10:22:22a
2 asked and answered. 10:22:24a
3 BY MS. MCCLAIN: 10:22:25a
4 Q Prior to -- 10:22:25a
5 MR. COLE: You can shake your head, Maureen, 10:22:26a
6 but it's been asked and answered. 10:22:27a
7 MS. MCCLAIN: It has not. 10:22:30a
8 Q Prior to Mr. Tellstrom taking over, what 10:22:31a
9 was your role in hiring assistant store managers? 10:22:33a
10 A I would find somebody that I wanted to 10:22:36a
11 hire and then get the approval of Mike 10:22:40a
12 Cossolotto. 10:22:42a
13 Q How would you get Mr. Cossolotto's 10:22:43a
14 approval? 10:22:44a
15 A By basically calling him and telling 10:22:45a
16 him, hey, I have so and so, I would like to hire 10:22:49a
17 him. 10:22:51a
18 Q Mr. Cossolotto did not interview that 10:22:52a
19 applicant; is that right? 10:22:56a
20 A Which applicant? 10:22:58a
21 Q The applicant for assistant store 10:22:59a
22 manager? 10:23:02a
23 A I'm not sure if he did or not. 10:23:02a
24 Q Did he normally give you approval to 10:23:04a
25 hire over the telephone? 10:23:06a

1 Q Was there any component in the manager- 10:25:59a
2 in-training program on hiring? 10:26:02a
3 A Not that I know of. No. 10:26:04a
4 Q Is there any other aspect of your job 10:26:05a
5 that you think you are not so good at aside from 10:26:12a
6 interviewing? 10:26:16a
7 A No. I don't think so. 10:26:17a
8 Q If you look at Exhibit 3, was Ms. Massey 10:26:20a
9 someone you hired? 10:26:32a
10 A I hired her as a cashier. 10:26:32a
11 Q Is Ms. Massey someone you promoted? 10:26:39a
12 A Yes. 10:26:41a
13 Q Do you recall when she became an 10:26:45a
14 assistant store manager? 10:26:48a
15 A I don't. 10:26:49a
16 Q Was that your decision to promote her? 10:26:49a
17 A It was a co-decision with Mr. Tellstrom. 10:26:56a
18 Q Did you recommend her promotion? 10:26:59a
19 A Yes. 10:27:01a
20 Q Did Mr. Tellstrom accept that 10:27:02a
21 recommendation? 10:27:04a
22 A I had another store manager interview 10:27:05a
23 her and Rick discussed it with that manager, and 10:27:08a
24 then it was approved. 10:27:11a
25 Q Who was that store manager? 10:27:12a

1	A	Jerry Burger.	10:27:14a
2	Q	Mr. Burger was at Healdsburg at that	10:27:16a
3		point in time?	10:27:20a
4	A	Yes.	10:27:20a
5	Q	You say, "I had another store manager	10:27:21a
6		interview her." Was that your decision to make	10:27:24a
7		that request?	10:27:27a
8	A	Yes.	10:27:28a
9	Q	Because you wanted some additional	10:27:28a
0		feedback?	10:27:31a
1	A	Yes.	10:27:33a
2	Q	Did you hire Mr. Porter?	10:27:33a
3	A	No, I did not.	10:27:40a
4	Q	Was Mr. Porter already working when you	10:27:41a
5		became a store manager?	10:27:45a
6	A	No.	10:27:46a
7	Q	How was he hired?	10:27:46a
8	A	Rick hired him.	10:27:47a
9	Q	How were you told about Mr. Porter's	10:27:48a
0		hire?	10:27:52a
1	A	By Rick.	10:27:52a
2	Q	What did Mr. Tellstrom say to you?	10:27:54a
3	A	He said that he had somebody that he had	10:27:56a
4		worked with previously that he wanted to bring	10:27:59a
5		aboard.	10:28:01a

1 Q What tasks are you not getting done? 10:57:55a
2 A Most of it is merchandising. 10:57:58a
3 Q You're not building displays? 10:58:02a
4 A That's some of it, yes. 10:58:04a
5 Q Do you generally build the displays at 10:58:06a
6 2939 or do you delegate that function or a little 10:58:08a
7 of both? 10:58:11a
8 A Both. 10:58:12a
9 Q Is it a function you like? 10:58:13a
10 A No. 10:58:15a
11 Q Why not? 10:58:16a
12 A Just not something I enjoy doing. 10:58:20a
13 Q Do you ever build a managers' table or 10:58:24a
14 managers' promotion? 10:58:32a
15 A Wow tables? 10:58:35a
16 Q You build wow tables, right? 10:58:36a
17 A I have. Yes. 10:58:38a
18 Q This is a table in the front of the 10:58:38a
19 store; is that right? 10:58:41a
20 A Right. 10:58:41a
21 Q Generally, is there some theme for the 10:58:42a
22 table that Dollar Tree provides to you? 10:58:44a
23 A Yes. 10:58:46a
24 Q Let's do a Mother's Day wow table; is 10:58:47a
25 that right? 10:58:50a

1	A	Yes.	10:58:50a
2	Q	And is that really as specific as the	10:58:51a
3		instructions get for the wow table?	10:58:54a
4	A	They usually include a photo of maybe a	10:58:57a
5		recommended display.	10:59:02a
6	Q	Is it correct that it's not required	10:59:03a
7		that you follow that recommended display?	10:59:05a
8	A	Yes.	10:59:07a
9	Q	Do you develop gift baskets for various	10:59:11a
0		holidays?	10:59:18a
1	A	Yes.	10:59:18a
2	Q	Is that something you do personally or	10:59:19a
3		do you delegate that or both?	10:59:21a
4	A	Both.	10:59:22a
5	Q	Is that something you like to do?	10:59:23a
6	A	No.	10:59:24a
7	Q	Is it correct that the store manager or	10:59:36a
8		the person to whom the store manager delegates	10:59:40a
9		this task has the discretion to pick what items	10:59:43a
0		go into any given gift basket?	10:59:48a
1	A	For the most part, yes.	10:59:51a
2	Q	Do you think that the more attractive	10:59:52a
3		the wow table, the higher the sales are likely to	10:59:57a
4		be? Do you see a correlation between those two?	11:00:00a
5	A	No.	11:00:05a

1	that need built.	11:08:51a
2	Q Does anyone your store, aside from the	11:08:52a
3	assistant managers or the store manager, build	11:08:57a
4	displays?	11:09:00a
5	A Yes.	11:09:01a
6	Q Who else?	11:09:01a
7	A The freight crew, cashiers.	11:09:02a
8	Q Do they do so with direction from the	11:09:04a
9	management team?	11:09:08a
0	A Yes.	11:09:09a
1	Q Do you delegate any personnel functions	11:09:10a
2	to your assistant store managers?	11:09:17a
3	A I don't think so.	11:09:19a
4	Q So you do all the hiring, all of the	11:09:21a
5	counseling, all of the input of personnel	11:09:24a
6	information?	11:09:26a
7	A No. No. I have had assistants in the	11:09:26a
8	past do hiring.	11:09:30a
9	Q Do you input all of the new hire	11:09:32a
0	information into the human resources system	11:09:36a
1	yourself or do you have someone else do that?	11:09:39a
2	A For the regular employees, I do; for	11:09:41a
3	assistant managers, Rick or whichever DM is in	11:09:44a
4	charge.	11:09:48a
5	Q Is it correct, then, that you have not	11:09:48a

1 Q Do you call them into the office for 11:13:56a
2 that purpose? 11:13:58a
3 A Sometimes; sometimes it's on the sales 11:13:59a
4 floor. 11:14:03a
5 Q You delegate markdown functions to your 11:14:15a
6 assistant store managers; is that right? 11:14:18a
7 A Sometimes. 11:14:19a
8 Q Do you sometimes do the markdown 11:14:19a
9 functions yourself? 11:14:22a
10 A Yes. 11:14:23a
11 Q What does that consist of? How do you 11:14:23a
12 do that? 11:14:25a
13 A Taking the damaged products and scanning 11:14:25a
14 them with the prism gun. 11:14:29a
15 Q You told me that sales have increased 11:14:35a
16 since you've been the store manager at 2939? 11:14:37a
17 A Yes. 11:14:40a
18 Q Has that been due to anything that you 11:14:40a
19 believe you have done? 11:14:43a
20 A I just believe it's more word of mouth. 11:14:46a
21 Our customer count has increased, therefore our 11:14:52a
22 sales have increased. 11:14:55a
23 Q And have you done anything to, in your 11:14:55a
24 judgment, to increase the word of mouth? 11:14:59a
25 A I'm not sure. 11:15:01a

1 Q Why is that? 11:19:49a

2 A He may be going over paperwork with me. 11:19:50a

3 Q What do you do when you're in the 11:19:53a

4 office, what kinds of things do you work on? 11:20:02a

5 A The order, scheduling, cashing out the 11:20:06a

6 cashiers, doing the deposits. That's about it. 11:20:10a

7 Q Do you do any planning? Do you develop 11:20:17a

8 a master list for the week? 11:20:22a

9 A I usually do a to-do list. But I do 11:20:24a

10 that daily. 11:20:27a

11 Q Do you do that in the beginning of the 11:20:29a

12 day usually? 11:20:30a

13 A Yes. 11:20:31a

14 Q Do you keep your to-do lists? 11:20:32a

15 A Yes. 11:20:35a

16 Q Do you have them somewhere? 11:20:36a

17 A Yes. They are in my clipboard in the 11:20:37a

18 office. 11:20:39a

19 Q Is your playbook in the office as well? 11:20:40a

20 A Yes. 11:20:43a

21 Q Could you make copies of those for me, 11:20:54a

22 please? 11:20:57a

23 A Of? 11:20:57a

24 Q The playbook and clipboard -- and your 11:20:59a

25 clipboard to-do list? 11:21:01a

1	A	It varies.	11:21:54a
2	Q	Do you look at e-mails you've gotten	11:21:58a
3		from Dollar Tree in developing your to-do list?	11:22:00a
4	A	Sometimes. Yes.	11:22:02a
5	Q	Do you get e-mails regularly from the	11:22:03a
6		operations folks in Virginia?	11:22:07a
7	A	Every Monday, yes.	11:22:09a
8	Q	And what sort of items are on those	11:22:13a
9		Monday e-mails from operations?	11:22:16a
10	A	That would be the merchandise bulletin	11:22:17a
11		which gives you suggestions of displays, displays	11:22:19a
12		that they want built, out-of-date merchandise	11:22:23a
13		that's coming up. And then a sales bulletin	11:22:30a
14		which is usually just announcements of anything	11:22:33a
15		that's happening.	11:22:35a
16	Q	Can you give me an example?	11:22:37a
17	A	Off the top of my head, no.	11:22:39a
18	Q	Do you recall what the merchandising	11:22:52a
19		bulletin was last week?	11:22:55a
20	A	No, I don't.	11:22:57a
21	Q	Can you give me a typical merchandising	11:22:58a
22		bulletin? Can you describe one to me?	11:23:00a
23	A	Yes. Usually the first part of it is	11:23:02a
24		the -- tells you what the item of the week is,	11:23:05a
25		and gives you a link for a sign to print off and	11:23:09a

1 hang up in front to show the customers. And then 11:23:13a
2 it goes down, sometimes it's two or three pages, 11:23:15a
3 sometimes it's only two pages, giving you various 11:23:18a
4 tasks throughout the week. 11:23:23a

5 Q Do you usually hang the sign for the 11:23:25a
6 item of the week? 11:23:27a

7 A When it's printable, yes. 11:23:28a

8 Q Sometimes you can't print it, so you 11:23:32a
9 don't hang it; is that right? 11:23:33a

10 A Correct. 11:23:35a

11 Q Do you build new displays every week? 11:23:37a

12 A Yes. 11:23:39a

13 Q Approximately, how many end caps do you 11:23:40a
14 have at 2939? 11:23:48a

15 A Approximately, I believe it's right 11:23:50a
16 around 80. 11:23:53a

17 Q So you have a lot of end caps because 11:23:54a
18 you're a racetrack store, correct? 11:23:58a

19 A I don't know. 11:23:59a

20 Q You haven't compared the number of end 11:24:01a
21 caps that other stores have? 11:24:04a

22 A No. 11:24:05a

23 Q And Dollar Tree gives you some suggested 11:24:05a
24 pictures for end caps, correct? 11:24:13a

25 A Yes. 11:24:14a

1 Q Do they give you suggested pictures for 11:24:15a
2 all 80 end caps? 11:24:18a
3 A No. 11:24:20a
4 Q Approximately, how many do you have to 11:24:20a
5 develop yourself without any suggestions? 11:24:23a
6 A I would approximate 75 percent. 11:24:25a
7 Q Do you change your end caps regularly? 11:24:27a
8 A Yes. 11:24:33a
9 Q Can you give me an example of an end cap 11:24:34a
10 you've just done? 11:24:37a
11 A Me personally or in the store? 11:24:38a
12 Q Yeah. Or you developed and asked 11:24:41a
13 someone else to do, but one that you designed. 11:24:44a
14 A No. 11:24:47a
15 Q You don't have a favorite end cap in 11:24:50a
16 mind? 11:24:53a
17 A No. 11:24:53a
18 Q Do you have front windows? 11:24:54a
19 A Yes. 11:24:58a
20 Q Do you normally have a front window 11:24:58a
21 display? 11:25:01a
22 A No. 11:25:02a
23 Q Why not? 11:25:03a
24 A We have shopping carts in our front 11:25:04a
25 window. 11:25:06a

1 Q So there's no separate merchandising 11:25:06a
2 display in your front window; is that right? 11:25:11a
3 A I don't think so. No. 11:25:14a
4 Q Is that your decision -- 11:25:15a
5 A No. 11:25:19a
6 Q -- or is there not a place for it? 11:25:19a
7 A For -- I'm sorry? 11:25:21a
8 Q Or is there not a place for a display? 11:25:21a
9 A We used to have displays there. 11:25:24a
10 Roselyn changed it. And now we have shopping 11:25:26a
11 carts there instead. 11:25:30a
12 Q Did Ms. Hammond talk to you about that? 11:25:30a
13 A Yes. 11:25:33a
14 Q Did she ask for your view on that 11:25:33a
15 change? 11:25:36a
16 A I don't remember. 11:25:36a
17 Q Do you think it's a good change? 11:25:37a
18 A No, I don't. 11:25:41a
19 Q Why not? 11:25:42a
20 A The shopping carts are on tile. And 11:25:43a
21 during rainy season, we have slip-and-fall 11:25:47a
22 hazards nearly all day long. 11:25:50a
23 Q Have you talked to Ms. Hammond about 11:25:52a
24 that? 11:25:54a
25 A No. 11:25:54a

1 Q Why not? 11:25:54a

2 A I've talked to Rick about it. 11:25:55a

3 Q And what has Rick said? 11:25:57a

4 A That's what Roselyn wants. 11:25:59a

5 Q Have you had any accidents -- 11:26:01a

6 A Not yet, no. 11:26:08a

7 Q -- since it started raining? 11:26:09a

8 Have you taken any special precautions 11:26:11a

9 to keep the tile clean? 11:26:13a

10 A Mopped up, yeah. We keep paper towels 11:26:16a

11 up in the check stands for puddles and whatnot. 11:26:21a

12 Q Was that something that you decided to 11:26:24a

13 do? 11:26:26a

14 A Yes. 11:26:26a

15 Q Did you direct the cashiers to pay 11:26:27a

16 attention to that? 11:26:28a

17 A Some of them. Yes. 11:26:29a

18 Q Does your playbook have a monthly 11:26:35a

19 planner? 11:26:38a

20 A Sometimes. 11:26:39a

21 Q Do you use that monthly planner? 11:26:40a

22 A We try to. 11:26:42a

23 Q How do you use it? 11:26:44a

24 A It shows you where some of the displays 11:26:47a

25 are supposed to be built. 11:26:50a

1 Q So you use it as a guideline for the 11:26:52a
2 displays? 11:26:54a
3 A Yes. 11:26:55a
4 Q And as I understood your testimony 11:26:55a
5 before, you don't always follow the guidelines, 11:26:57a
6 correct? 11:26:59a
7 A Correct. 11:26:59a
8 Q Is there a reason for that? Do you 11:27:00a
9 think another display is better or do you not 11:27:02a
10 have the product or -- 11:27:05a
11 A It's usually lack of product. 11:27:06a
12 Q So you have to substitute product? 11:27:08a
13 A Yes. 11:27:11a
14 Q Do you keep a weekly business summary in 11:27:11a
15 your playbook? 11:27:21a
16 A Occasionally. 11:27:23a
17 Q And why do you only do so occasionally? 11:27:23a
18 A I only have access to that through 11:27:29a
19 Rick. And it's not something that I'm given each 11:27:31a
20 week. So when I have it, it's in there. 11:27:35a
21 Q Do you review it when you have it? 11:27:37a
22 A Yes. 11:27:39a
23 Q And does it assist you in any way? 11:27:39a
24 A No. 11:27:42a
25 Q It tells you what your sales have been. 11:27:46a

1 best things to sell, right? 11:30:49a

2 A Yes. 11:30:52a

3 Q Do you track that and do you try to 11:30:57a

4 change your merchandising to incorporate where 11:30:59a

5 there's a higher margin? 11:31:03a

6 A Not usually. No. 11:31:04a

7 Q So you look at it, but it doesn't really 11:31:05a

8 affect any decisions you make in terms of 11:31:08a

9 merchandising or ordering; is that right? 11:31:10a

10 A Correct. 11:31:11a

11 Q Has anyone talked to you about that, 11:31:12a

12 said, you know, if you paid more attention to 11:31:19a

13 margin, you might be able to increase your sales 11:31:22a

14 or the profitability of your sales? 11:31:24a

15 A Yes. 11:31:25a

16 Q Who has told you that? 11:31:26a

17 A I believe Roselyn. 11:31:27a

18 Q And does that make sense to you? 11:31:29a

19 A Yes. 11:31:31a

20 Q So why don't you do it? 11:31:32a

21 A We don't generally have control over the 11:31:34a

22 product we receive. The best I've found is some 11:31:37a

23 of the mandatory displays. 11:31:42a

24 Q Some of the mandatory displays that you 11:31:44a

25 don't necessarily follow? 11:31:48a

1 A We follow the two I'm thinking of. 11:31:49a
2 Q Which two are those? 11:31:52a
3 A Tupperware end caps. 11:31:55a
4 Q And Tupperware is houseware; is that 11:31:59a
5 right? 11:32:01a
6 A Yes. 11:32:02a
7 Q Is that the department that it's in? 11:32:03a
8 A Yes. 11:32:06a
9 Q So that's a high margin department? 11:32:06a
10 A Yes. 11:32:08a
11 Q So when you're building a wow table, do 11:32:09a
12 you try to put goods on it that you have from 11:32:13a
13 high margin departments? 11:32:15a
14 A No. 11:32:17a
15 Q Why not? 11:32:17a
16 A We are typically told what to put on the 11:32:18a
17 wow table. 11:32:22a
18 Q You're told generally what the theme of 11:32:23a
19 the wow table is? 11:32:25a
20 MR. COLE: Objection. Argumentative. 11:32:26a
21 BY MS. MCCLAIN: 11:32:29a
22 Q Isn't that right? You're told to build 11:32:29a
23 a wow table for Christmas? 11:32:30a
24 A We are usually told a specific, you 11:32:32a
25 know, this week put picture frames on it. This 11:32:34a

1 Q And shows those subdepartments by 11:43:04a
2 margin? 11:43:08a
3 A I'm not sure. 11:43:09a
4 Q Does it show them by the amount sold? 11:43:10a
5 A It shows the dollars sold. 11:43:13a
6 Q Do you look at that to see what has been 11:43:16a
7 selling in your store? 11:43:19a
8 A No. 11:43:20a
9 Q Why not? 11:43:20a
10 A I don't order it, so it doesn't really 11:43:21a
11 affect me in my opinion. 11:43:27a
12 Q You don't order anything yourself? 11:43:29a
13 A I order very little. 11:43:31a
14 Q One percent? 11:43:32a
15 A I don't know the number. 11:43:33a
16 Q Do you use the topic 200 SKUs when 11:43:34a
17 planning your merchandising or ordering? 11:43:40a
18 A I look at it, yes. 11:43:43a
19 Q What do you do with it? 11:43:45a
20 A It's usually just interesting to see 11:43:48a
21 what your best selling items are. 11:43:50a
22 Q And if you have a best selling item, do 11:43:52a
23 you try to make sure that item is always stocked, 11:43:54a
24 always on the floor? 11:43:58a
25 A No. No. If we have it, yes. 11:44:00a

1 be a useful exercise? 11:44:55a

2 A I don't think so. 11:44:57a

3 Q Does your playbook have pull and holds? 11:44:59a

4 A Yes. 11:45:04a

5 Q And what are they? 11:45:04a

6 A Items that have to be pulled off the 11:45:05a

7 sales floor. 11:45:08a

8 Q For a variety of reasons; is that right? 11:45:09a

9 A Yes. 11:45:10a

10 Q Either because they are damaged or -- 11:45:11a

11 A We don't know the reasons. We are not 11:45:16a

12 told. 11:45:18a

13 Q You're just told pull and hold? 11:45:18a

14 A Yes. 11:45:19a

15 Q And the things that you pull off the 11:45:20a

16 sales floor have to be recorded as being out of 11:45:21a

17 inventory, correct? 11:45:25a

18 A Sometimes. 11:45:25a

19 Q What is the distinction? 11:45:31a

20 A A pull and hold, we have to hold it 11:45:33a

21 until they tell us what to do with it. If they 11:45:35a

22 tell us to destroy it, then it's removed from the 11:45:38a

23 inventory. 11:45:41a

24 Q And do you supervise that process? 11:45:42a

25 A Usually. 11:45:45a

1	A	Separate form.	11:48:27a
2	Q	What is shown on the register order	11:48:28a
3		form?	11:48:30a
4	A	It's a register audit form. It's for	11:48:31a
5		auditing cashiers during their shift to check the	11:48:36a
6		accuracy of their till.	11:48:39a
7	Q	So that's essentially a counting of the	11:48:40a
8		till, is that right, compared to what's on the	11:48:43a
9		register in the transaction recording?	11:48:45a
0	A	That's --	11:48:51a
1	Q	How do you do a register audit?	11:48:51a
2	A	Okay. Well, we have a machine in the	11:48:53a
3		office that weighs money and we take that machine	11:48:55a
4		out to the register and we count the cashier's	11:48:59a
5		cash at the register, run a report and match the	11:49:04a
6		two together.	11:49:07a
7	Q	When you say "we," who does that?	11:49:08a
8	A	Myself and assistant managers.	11:49:13a
9	Q	Is that a function that's restricted to	11:49:17a
0		the management team?	11:49:18a
1	A	Yes.	11:49:19a
2	MS. MCCLAIN:	May I have this marked as next	11:49:20a
3		in order, please?	11:49:35a
4		This is in your packet. It's 1283.	11:49:54a
5		(Exhibit 9 was marked for identification.)	11:49:59a

1	A	Sort of.	11:59:37a
2	Q	Do you see 63 percent, 52 percent, 23	11:59:39a
3		percent?	11:59:42a
4	A	Okay. Yes.	11:59:43a
5	Q	If we turn to the last page, which	11:59:43a
6		brings us to 2007, we see some variation. We	11:59:55a
7		see, for example, a 22 percent, a 35 percent, and	12:00:04p
8		we also see smaller numbers.	12:00:10p
9		Is it correct that looking at the period	12:00:13p
10		of 2004 to present, the amount you directly order	12:00:14p
11		as opposed to the amount that is on the SLIK	12:00:18p
12		system, has declined?	12:00:23p
13	A	Yes.	12:00:26p
14	Q	Are there also -- do you also place less	12:00:26p
15		orders? That is, is the decline only due to	12:00:36p
16		what's on the automatic system or is it due to	12:00:39p
17		how you've been ordering as well or can you say?	12:00:41p
18	A	There's been periods where we used to	12:00:46p
19		get two orders a week. But the majority of it is	12:00:50p
20		based on the store switching everything over to	12:00:53p
21		automatic replenishment.	12:00:56p
22	Q	Well, it's not everything, is it?	12:00:58p
23	A	No, it's the majority.	12:01:00p
24	Q	What goods do you order that are not on	12:01:01p
25		automatic replenishment, presently?	12:01:03p

1 A I usually only order the food department 12:01:06p
2 and drinks. 12:01:09p

3 Q So when you place an order yourself, it 12:01:11p
4 is normally either for food or drinks; is that 12:01:16p
5 right? 12:01:21p

6 A That's usually right, yes. 12:01:21p

7 Q Is there any exception to that 12:01:23p
8 currently? 12:01:25p

9 A Yes. 12:01:26p

10 Q What's the exception? 12:01:26p

11 A Occasionally I'll pop into another 12:01:27p
12 department and order something. 12:01:30p

13 Q Under what circumstances would you do 12:01:33p
14 that? Can you give me an example? 12:01:34p

15 A Yeah. If Rick or somebody sends out an 12:01:37p
16 e-mail, you know, hey, this item is in the order 12:01:39p
17 book, order it. Then I can go into that 12:01:42p
18 department and order it. And then I also order 12:01:44p
19 store supplies. 12:01:46p

20 Q Do you ever look at the order book to 12:01:47p
21 see what items are available or do you wait for 12:01:51p
22 Mr. Tellstrom to tell you that? 12:01:55p

23 A Not recently. No. 12:01:56p

24 Q Why not? 12:01:58p

25 A Because so much of it is automatically 12:01:59p

1 replenished. And we are so overstocked in our 12:02:02p
2 stockroom, that I don't want merchandise to come 12:02:06p
3 in. 12:02:08p
4 Q You would have a different view or a 12:02:08p
5 different course of action, if you weren't 12:02:14p
6 overstocked; is that right? 12:02:16p
7 A Yes. 12:02:17p
8 Q Have there been times when you've been a 12:02:18p
9 store manager when you were not overstocked? 12:02:20p
10 A Yes. 12:02:22p
11 Q Can you tell me the last period of time 12:02:22p
12 when that was the case? 12:02:26p
13 A No. 12:02:26p
14 Q This year? 12:02:27p
15 A I don't know. 12:02:28p
16 Q Has your business declined? What is the 12:02:30p
17 reason for the overstock? 12:02:34p
18 A We get whatever corporate wants to send 12:02:35p
19 us. So -- and if we don't have enough manpower 12:02:39p
20 to get all that merchandise out, then it fills up 12:02:43p
21 the stockroom. 12:02:46p
22 Q Do you know that you can make a request 12:02:47p
23 to get less stock? 12:02:48p
24 A Yes. 12:02:50p
25 Q Have you done that? 12:02:50p

1	A	No.	12:48:40p
2	Q	He's still there?	12:48:41p
3	A	Yes.	12:48:44p
4	Q	So he stopped making these kinds of	12:48:46p
5		mistakes?	12:48:48p
6	A	Yes.	12:48:49p
7	Q	So this worked?	12:48:52p
8	A	To an extent. I believe it may have	12:48:53p
9		happened since, I'm not positive.	12:48:58p
10	Q	Wouldn't you know that?	12:49:00p
11	A	Not without his file in front of me.	12:49:04p
12		No.	12:49:06p
13	Q	If it happened since, do you have any	12:49:06p
14		recollection of your reasoning in not terminating	12:49:13p
15		him?	12:49:15p
16	A	It's not up to me to terminate. So I	12:49:15p
17		have to get approval through HR and --	12:49:21p
18	Q	When you terminate, you consult with HR;	12:49:26p
19		is that right?	12:49:29p
20	A	Yes.	12:49:29p
21	Q	Who do you normally consult with?	12:49:29p
22	A	The majority of the time it's been	12:49:33p
23		Candace; for a period of time it was Reed.	12:49:35p
24	Q	So that's Mr. Balderas and Ms. Camp,	12:49:38p
25		correct?	12:49:42p

1 Q So now there's a cashier in charge even 03:01:28p
2 when an assistant manager is not in the store? 03:01:32p
3 A Yes. 03:01:36p
4 Q Is it your ultimate responsibility to 03:01:36p
5 approve payroll? 03:01:53p
6 A Sometimes. 03:01:54p
7 Q What do you mean by "sometimes"? 03:01:55p
8 A Sometimes I approve it; sometimes an 03:02:02p
9 assistant approves it. Depends on who is working 03:02:05p
10 on the day of approval. 03:02:08p
11 Q Is it correct that only you can finally 03:02:10p
12 approve the payroll? 03:02:21p
13 A No. 03:02:22p
14 Q That's something that you allow your 03:02:23p
15 assistant managers to do if they are in the store 03:02:25p
16 when payroll needs to be approved -- 03:02:28p
17 A Yes. 03:02:30p
18 Q -- and you are not? 03:02:30p
19 A Yes. 03:02:31p
20 Q So when I asked you whether your store 03:02:32p
21 employees regularly took their breaks and meal 03:02:55p
22 periods, you said the cashiers, yes, but with 03:02:57p
23 respect to the managers, it's been a problem. 03:02:59p
24 And you have explained to me that problem relates 03:03:02p
25 to you believing you do not have enough coverage 03:03:06p

1 Q Do you agree that it's Dollar Tree's 03:08:11p
2 policy that managers must correct any outstanding 03:08:13p
3 violations, warnings or informed messages? 03:08:15p
4 A Yes. 03:08:20p
5 Q Those are messages that appear in the 03:08:20p
6 Compass system, correct? 03:08:22p
7 A Yes. 03:08:23p
8 Q For example, if someone fails to punch 03:08:23p
9 back in after a break, you will get a message to 03:08:26p
10 that effect? 03:08:28p
11 A Yes. 03:08:29p
12 Q It's the manager's responsibility to 03:08:29p
13 correct that; is that right? 03:08:30p
14 A Or one of the assistants. Yes. 03:08:31p
15 Q The management team? 03:08:33p
16 A Yes. 03:08:35p
17 Q Is it correct that assistant managers 03:08:36p
18 can approve associate hours but cannot approve 03:08:46p
19 their own hours? 03:08:52p
20 A Yes. 03:08:53p
21 Q Do you provide final approval to the 03:08:53p
22 assistant managers' hours every week? 03:08:54p
23 A No. 03:08:57p
24 Q Who does that? 03:08:57p
25 A The other assistant managers. 03:08:58p

1 Q You've excluded evaluation because 03:41:32p
2 you've not regularly completed performance 03:41:35p
3 evaluations; is that right? 03:41:37p

4 A Yes. 03:41:38p

5 Q Do you agree that it is one of your 03:41:40p
6 principal responsibilities to maintain production 03:41:43p
7 records to evaluate the job performance of sales 03:41:44p
8 associates? 03:41:47p

9 A No. 03:41:48p

10 Q Do you review production records? 03:41:53p

11 A The only production records we have ever 03:41:56p
12 had were for freight crew, and that was 03:42:00p
13 discontinued. 03:42:03p

14 Q When was that discontinued? 03:42:04p

15 A At the last regional meeting. 03:42:07p

16 Q Who discussed the discontinuance of 03:42:10p
17 that? 03:42:15p

18 A I don't remember who gave that speech. 03:42:15p

19 Q Do you recall the reason? 03:42:16p

20 A No, I don't. 03:42:17p

21 Q Are stockers expected to have any 03:42:18p
22 minimum standards at this point in time? 03:42:25p

23 A Not that I'm aware of, no. 03:42:31p

24 Q Do you agree that it's one of your 03:42:32p
25 principal responsibilities to provide leadership 03:42:36p

1	A	Yes.	03:52:00p
2	Q	So if all you're doing is putting	03:52:01p
3		something in place in precise position as	03:52:03p
4		suggested to you in a picture, you don't think	03:52:06p
5		that's a management responsibility; but if you're	03:52:09p
6		pulling goods from other parts of the store and	03:52:11p
7		you're creating your own wow table, you believe	03:52:14p
8		that's a management responsibility?	03:52:15p
9	A	No.	03:52:16p
10	Q	What's wrong about that statement?	03:52:17p
11	A	If I'm telling somebody how to do it,	03:52:19p
12		that's managerial.	03:52:21p
13	Q	So you think it's not a managerial	03:52:23p
14		function in any way, shape or form to actually	03:52:28p
15		physically help build the end cap; is that right?	03:52:31p
16	A	Correct.	03:52:33p
17	Q	Have you ever told anyone that that's	03:52:34p
18		your impression?	03:52:35p
19	A	Yes.	03:52:35p
20	Q	Who have you told?	03:52:37p
21	A	Mr. Cossolotto, Rick. Other store	03:52:39p
22		managers.	03:52:41p
23	Q	Have Mr. Cossolotto and Mr. Tellstrom	03:52:45p
24		agreed with you?	03:52:49p
25	A	I can't recall.	03:52:49p

1 -- "each day," sorry. Am I reading that right? 03:55:45p
2 "I spend most of each day stocking product and 03:55:49p
3 building sets per my DM's expectations." 03:55:51p
4 Am I reading that correctly? 03:55:54p
5 A Yes. 03:55:55p
6 Q Is that a reference to Mr. Tellstrom? 03:55:56p
7 A Mr. Cossolotto. 03:55:58p
8 Q Because we are looking at a time frame 03:55:59p
9 prior to when Mr. Tellstrom assumed the DM 03:56:01p
10 position; is that right? 03:56:05p
11 A Yes. 03:56:06p
12 Q Mr. Cossolotto told you that he expected 03:56:06p
13 you to spend most of each day stocking product 03:56:11p
14 and building sets? 03:56:14p
15 A I don't recall. 03:56:15p
16 Q Do you recall why you wrote that? 03:56:16p
17 A Yes. Because I spend the majority of my 03:56:24p
18 time stocking, and Mike never told me not to do 03:56:28p
19 that. 03:56:31p
20 Q Did you tell Mike that's what you were 03:56:32p
21 doing? 03:56:35p
22 A Yes. 03:56:36p
23 Q And how would you prove, Mr. Runnings, 03:56:36p
24 that you spent a majority of your time stocking? 03:56:40p
25 A I can't. 03:56:43p

1 STATE OF CALIFORNIA)

2 COUNTY OF SONOMA)

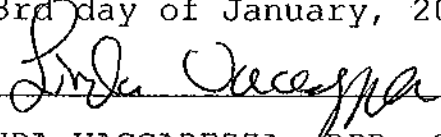
3 I, LINDA VACCAREZZA, a Certified Shorthand
4 Reporter of the State of California, duly authorized
5 to administer oaths pursuant to Section 2025 of the
6 California Code of Civil Procedure, do hereby certify
7 that

8 ROBERT LEWIS RUNNINGS,

9 The witness in the foregoing examination, was by
10 me duly sworn to testify the truth, the whole truth
11 and nothing but the truth in the within-entitled
12 cause; that said testimony of said witness was
13 reported by a disinterested person, and was thereafter
14 transcribed under my direction into typewriting and is
15 a true and correct transcription of said proceedings.

16 I further certify that I am not of counsel or
17 attorney for either or any of the parties in the
18 foregoing examination and caption named, nor in any
19 way interested in the outcome of the cause named in
20 said caption.

21 Dated the 3rd day of January, 2008

22 
23 LINDA VACCAREZZA, RPR, CSR #10201

Preferred Reporters
19229 Sonoma Highway, #112
Sonoma, California 95476-5413

January 3, 2008

To: Robert Lewis Runnings
SCOTT COLE & ASSOCIATES
ATTN: SCOTT COLE, ESQUIRE
1970 Broadway, Ninth Floor
Oakland, California 94612

Re: Runnings v. Dollar Tree Stores
Deposition taken on December 17, 2007
Reported by Linda Vaccarezza, CSR #10201

Dear Mr. Runnings,

The original transcript of your deposition taken in the above-entitled action has been prepared and is available at this office for your reading, correcting and signing.

You may wish to discuss this matter with your attorney to determine if counsel requires that the original transcript of your deposition be read, corrected and signed by you before it is sealed.

Your rights regarding signature of this deposition are contained in the California Code of Civil Procedure.

If you wish to make arrangements to review the original transcript of your deposition, please contact this office during office hours, 9:00 to 5:00 Monday through Friday, to make an appointment to review the original transcript.

Sincerely,


Linda Vaccarezza

Certified Shorthand Reporter

cc: All Counsel

EXHIBIT G

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

--oOo--

MIGUEL A. CRUZ, and JOHN
D. HANSEN, individually
and on behalf of all
others similarly
situated,

COPY

Plaintiffs, Case No. C07-02050 SC

vs.

DOLLAR TREE STORES, INC.,

Defendant.

DEPOSITION OF MIGUEL A. CRUZ

DATE: FRIDAY, OCTOBER 12, 2007

TIME: 9:32 A.M.

LOCATION: Kauff, McClain & McGuire
One Post Street, Suite 2600
San Francisco, California

PREFERRED REPORTERS
Certified Shorthand Reporters
201 E. Watmaugh Road
Sonoma, California 95476
707-938-9227

REPORTED BY: Wendy L. Van Meerbeke, CSR #3676

1 Q. Dollar Tree generally told you it expected 10:16:43
2 you to work about 45 hours; correct? 10:16:45
3 A. Forty-three to 45. 10:16:49
4 Q. Forty-three to 45? 10:16:51
5 A. Yes. 10:16:53
6 Q. Why was it that you worked so many more 10:16:53
7 hours than Dollar Tree expected you to work? 10:16:57
8 A. Not enough employees. 10:16:59
9 Q. Did you have vacancies when you were store 10:17:03
10 manager? 10:17:05
11 A. No. 10:17:05
12 Q. Did anyone ever restrict your hiring of 10:17:08
13 employees? 10:17:11
14 A. No. 10:17:12
15 Q. Isn't it right that you could have hired 10:17:13
16 as many employees as you wanted? 10:17:15
17 A. No. 10:17:16
18 Q. Who told you you couldn't hire as many 10:17:18
19 employees as you wanted? 10:17:20
20 A. Rick. 10:17:21
21 Q. How did he say that? What did he say? 10:17:23
22 A. Not enough payroll. 10:17:26
23 Q. There's a difference between payroll hours 10:17:28
24 and the number of employees; isn't that right? 10:17:30
25 A. How are you going to get employees when 10:17:32

1	Q. What sorts of things did you and	10:31:24
2	Mr. Tellstrom talk about when he arrived?	10:31:27
3	A. Other managers.	10:31:35
4	Q. Did Mr. Tellstrom provide you any	10:31:39
5	assistance in running the business of your store?	10:31:41
6	A. Yes.	10:31:45
7	Q. What sort of assistance did he provide?	10:31:45
8	A. Telling me what to do.	10:31:50
9	Q. What did he tell you to do?	10:31:51
10	A. Making end caps and how to do freight.	10:31:55
11	Q. What did he say about how to do freight?	10:32:03
12	A. How to sort food, beverage. The store	10:32:10
13	goes by sections, so it goes foods, baby stuff,	10:32:28
14	shampoo, so we have to sort everything on pallets.	10:32:35
15	Q. So when the freight comes in, it comes in	10:32:41
16	by truck, usually; is that right?	10:32:45
17	A. Yes.	10:32:47
18	Q. And when do the trucks usually come to the	10:32:47
19	store? What time frame during the day?	10:32:49
20	A. It doesn't have an hour.	10:32:53
21	Q. The trucks could come at any time; is that	10:32:55
22	right?	10:32:57
23	A. Any time. Yes.	10:32:57
24	Q. Were the trucks usually unloaded at night?	10:32:58
25	A. No.	10:33:03

1	Q. Did you promote any individuals to become	10:34:10
2	assistant managers?	10:34:11
3	A. No.	10:34:12
4	Q. Why not?	10:34:12
5	A. Because Mr. Rick Tellstrom told me not to	10:34:13
6	do that.	10:34:17
7	Q. Why did he tell you that? Did he tell you	10:34:18
8	what the reason was?	10:34:20
9	A. They're not good enough.	10:34:22
10	Q. Did he tell you to keep looking for other	10:34:25
11	people?	10:34:27
12	A. No.	10:34:27
13	Q. Did you keep looking for other people?	10:34:28
14	A. No.	10:34:29
15	Q. So you had someone who had freight	10:34:34
16	responsibility, but they were not an assistant	10:34:37
17	manager; is that right?	10:34:39
18	A. Yes.	10:34:40
19	Q. Whenever the trucks came in, they were	10:34:57
20	unloaded, is that right, any time of the day or	10:34:59
21	night?	10:35:02
22	A. Yes.	10:35:02
23	Q. Who did the physical unloading of the	10:35:05
24	trucks?	10:35:08
25	A. The driver.	10:35:08

1	Q. Are you sure he said that?	10:36:01
2	A. Yes.	10:36:03
3	Q. Are you sure he didn't say, "You have to	10:36:04
4	direct others to engage in stocking"?	10:36:06
5	A. No.	10:36:09
6	Q. Who was responsible for putting the goods	10:36:11
7	on U-boats and taking them to the selling floor?	10:36:14
8	A. Us.	10:36:18
9	Q. The stockers and you?	10:36:19
10	A. The stockers. Yeah.	10:36:20
11	Q. When you say, "yeah," you mean "yes"; is	10:36:26
12	that right?	10:36:32
13	A. Yes.	10:36:32
14	Q. Aside from when Mr. Tellstrom physically	10:36:37
15	came to your store, how often did you talk with	10:36:40
16	him?	10:36:43
17	A. Every day.	10:36:48
18	Q. He would call you or you would call him?	10:36:49
19	A. He would call me.	10:36:51
20	Q. Did you ever call him?	10:36:52
21	A. Not really. No.	10:36:54
22	Q. You never had a question for him?	10:36:57
23	A. Yes.	10:37:09
24	Q. Did you call him when you had that	10:37:11
25	question?	10:37:12

1 associates' handbook, Mr. Cruz? This is just an 10:48:36
2 excerpt from it. There's a full booklet. Were you 10:48:39
3 familiar with that full booklet? 10:48:42
4 A. No. 10:48:44
5 Q. You never saw the store associates' 10:48:44
6 handbook? 10:48:46
7 A. I saw. 10:48:46
8 Q. Did you hire any employees while you were 10:48:47
9 at the Healdsburg store? 10:48:50
10 A. One. 10:48:52
11 Q. Did you provide that employee with a copy 10:48:52
12 of the store associates' handbook? 10:48:55
13 A. Yes. 10:48:57
14 Q. Did you ever review the store associates' 10:48:57
15 handbook? 10:49:00
16 A. No. 10:49:00
17 Q. You just handed it out? 10:49:01
18 A. Yes. 10:49:03
19 Q. Why didn't you look at it? 10:49:04
20 A. No time to. 10:49:06
21 Q. Do you see under "Wage and Hour Policy" on 10:49:11
22 the second page that it says, "Federal law and 10:49:14
23 Dollar Tree's policies require all hourly paid 10:49:18
24 associates to be paid in full for all time worked"? 10:49:23
25 A. Yes. 10:49:26

1 MS. McCLAIN: It is a question. 10:54:10

2 Q. Did it take a lot of time for you to do 10:54:10

3 that? You had to go into the computer. You had to 10:54:12

4 figure out who worked overtime. You had to repunch 10:54:14

5 the time. You had to calculate what the hours 10:54:17

6 were. 10:54:24

7 A. I can't calculate. 10:54:25

8 Q. Well, how did you know there was overtime? 10:54:26

9 A. Mr. Rick will call me. 10:54:28

10 Q. So Mr. Tellstrom called you every time 10:54:31

11 somebody worked overtime and said, "Go in there and 10:54:33

12 change that time"? 10:54:36

13 A. Every day he would call. 10:54:37

14 Q. Did he say, "So-and-so worked overtime. 10:54:40

15 Change that time"? 10:54:44

16 A. Yes. 10:54:45

17 Q. Did he tell you to change the time from 10:54:45

18 7:10 to 7:00? Did he give you those specific 10:54:51

19 instructions? 10:54:54

20 A. Yes. 10:54:55

21 Q. He did that every day? 10:54:55

22 A. Not every day, but when somebody would go 10:54:56

23 over the time. 10:55:00

24 Q. So you told me just a bit ago that every 10:55:08

25 day, he would call. That's not right? 10:55:11

1 the Healdsburg store was to remove overtime from 11:02:19
2 employees' records? 11:02:21
3 A. No. 11:02:22
4 Q. You never mentioned that? 11:02:22
5 A. No. 11:02:24
6 Q. Was it your intent in training the new 11:02:33
7 manager that you were going to become the freight 11:02:36
8 manager, or did you think you were going to leave? 11:02:38
9 You said, "I was training a new manager." Did you 11:02:44
10 intend to leave when you were training the new 11:02:47
11 manager? 11:02:49
12 A. No. Rick send -- 11:02:49
13 Q. Pardon me? 11:02:54
14 A. Rick sent him to the store to be trained. 11:02:56
15 Q. Rick sent this guy to the store to be 11:02:58
16 trained? 11:03:01
17 A. Yes. 11:03:01
18 Q. Did you know he was going to take over 11:03:01
19 your store? 11:03:03
20 A. No. 11:03:04
21 Q. What were the circumstances of you leaving 11:03:04
22 on January 25, 2007? What happened? 11:03:06
23 A. I worked, um, too many hours the day 11:03:10
24 before, and we agreed to be there at 7:00 in the 11:03:13
25 morning. He got there at 5:00 in the morning. He 11:03:17

1 called Rick about me not being there. When I got 11:03:22
2 there at 7:00 o'clock in the morning, I got a phone 11:03:28
3 call from Rick saying, um, "Go home. Come back and 11:03:30
4 close the store." 11:03:36
5 I had my child that I have to take care 11:03:38
6 of, and I said, "I can't." I said, "I can't come 11:03:44
7 back and close." 11:03:50
8 I went home. An hour later, I got a phone 11:03:52
9 call from Mr. Rick. He called me a smart ass. 11:03:55
10 THE REPORTER: "He called me" --
11 THE WITNESS: A smart ass.
12 MS. McCLAIN: Smart ass. 11:04:09
13 THE WITNESS: And said, "You have to get 11:04:10
14 your last check." 11:04:19
15 MS. McCLAIN: 11:04:19
16 Q. So he fired you? 11:04:20
17 A. Yes. 11:04:21
18 Q. Did you talk about that with anybody? Did 11:04:21
19 you call Candace Camp? Did you discuss it with 11:04:23
20 anyone? 11:04:25
21 A. No. 11:04:26
22 Q. Were you unhappy about being fired? 11:04:26
23 A. Yes. 11:04:32
24 Q. Why? I thought you didn't like it there. 11:04:34
25 A. Nobody -- nobody likes to get fired. 11:04:38

1 Q. How did you decide when you were going to 11:06:56
2 schedule employees? 11:06:58
3 A. I had this schedule. I used to go by the 11:07:03
4 same schedule every week that I had. 11:07:09
5 Q. You just put in the same schedule -- 11:07:13
6 A. Yes. 11:07:16
7 Q. Every week? 11:07:16
8 A. Yes. 11:07:17
9 Q. You did that even though you might be 11:07:17
10 busier one week than another? 11:07:19
11 A. Yes. 11:07:20
12 Q. You did that even though you might have 11:07:21
13 specific freights coming in, in a given week? 11:07:24
14 A. Yes. 11:07:28
15 Q. Weren't there differences in the store 11:07:28
16 sales from week to week? 11:07:32
17 A. Yes. 11:07:35
18 Q. For example, you would expect to have more 11:07:37
19 store sales in December than you had in July; 11:07:40
20 correct? 11:07:44
21 A. Yes. 11:07:44
22 Q. Did you increase your staffing in December 11:07:45
23 or did you use the same old schedule you used in 11:07:49
24 July? 11:07:51
25 A. I think it would change a little bit. 11:07:53

1 Q. You can say anything. The question is 12:36:21
2 whether it's true. 12:36:23
3 A. Well, if I would punch in and out, that 12:36:24
4 would show, you know, but I didn't. 12:36:28
5 Q. You're going with all the time; is that 12:36:37
6 right? 12:36:39
7 A. Yes. 12:36:39
8 Q. Do you know whether Mr. Corina still works 12:37:28
9 at 2262? 12:37:31
10 A. I really don't know. 12:37:35
11 Q. Was he there when you left? 12:37:36
12 A. Yes. 12:37:39
13 MS. McCLAIN: May I have this marked as 12:37:53
14 next in order, please? 12:37:54
15 (A document was marked as Exhibit 39 12:37:55
16 for identification.) 12:38:41
17 MS. McCLAIN: 12:38:41
18 Q. Have you seen this document before, 12:38:42
19 Mr. Cruz? 12:38:43
20 A. I don't remember. 12:38:44
21 Q. From time to time, did you complete 12:38:52
22 certifications of the time you were spending on 12:38:53
23 various job responsibilities when you worked at 12:38:58
24 Dollar Tree? 12:39:01
25 A. I -- 12:39:08

1 Q. Did you ever go online and answer whether 12:39:08
2 you were doing the job duties that are set forth in 12:39:11
3 this document? 12:39:13

4 A. No. 12:39:14

5 Q. Did you ever hear anything about a 12:39:17
6 certification process? 12:39:19

7 A. No. 12:39:20

8 Q. Did you supervise associates? 12:39:25

9 A. I didn't supervise. I was working with 12:39:31
10 them. 12:39:34

11 Q. You never directed an associate to get on 12:39:35
12 the cash register, for example? 12:39:39

13 A. No. 12:39:44

14 Q. You never gave an associate one direction? 12:39:45

15 A. Yes. 12:39:51

16 Q. You never said to an associate, "Get a 12:39:52
17 U-boat and get the balloons out on the floor"? 12:39:55

18 A. Most of the time, we ran out of helium, 12:40:04
19 so -- 12:40:10

20 Q. That was an example -- did you ever direct 12:40:10
21 any associate to get a U-boat and get some form of 12:40:15
22 product on the floor? 12:40:21

23 A. Yes. 12:40:22

24 Q. Did you ever direct an associate to build 12:40:23
25 an end cap? 12:40:26

1	A. No.	12:40:28
2	Q. Who built the end caps?	12:40:29
3	A. Me.	12:40:31
4	Q. You never had an associate help?	12:40:31
5	A. No.	12:40:36
6	Q. You did the end caps all by yourself?	12:40:36
7	A. Yes.	12:40:38
8	Q. Always?	12:40:38
9	A. Yes.	12:40:39
10	Q. Why?	12:40:40
11	A. I was told from Mr. Rick that my end caps	12:40:45
12	were good because he showed me how to do them.	12:40:51
13	Q. Did you ever show any of your associates	12:40:57
14	how to do them?	12:41:01
15	A. No. They would help me.	12:41:09
16	Q. Your associates would help you build end	12:41:19
17	caps?	12:41:23
18	A. Yes.	12:41:24
19	Q. Seconds ago, Mr. Cruz, you told me that	12:41:31
20	you never had an associate help you build end caps.	12:41:37
21	Which one of those answers is truthful?	12:41:41
22	A. I can say they would help.	12:41:46
23	Q. Did you ever direct an associate to help	12:41:54
24	you build a particular end cap?	12:41:57
25	A. No.	12:42:00

1	A. Uh-huh.	01:50:37
2	Q. You counted it regularly, you deposited it	01:50:38
3	regularly, and you did paperwork to show what the	01:50:44
4	totals and deposits were; correct?	01:50:47
5	A. Yes.	01:50:49
6	Q. And that was paperwork that you were	01:50:49
7	responsible for verifying; is that right?	01:50:53
8	A. Not just me. Also the assistant manager.	01:50:54
9	Q. You told me that you only hired one	01:51:05
10	employee the whole time you were there; is that	01:51:07
11	right?	01:51:09
12	A. Yes.	01:51:09
13	Q. Did you tell me the name of that employee?	01:51:10
14	A. Kayla Smith. Well, at one point, we	01:51:12
15	hired -- I hired ten people.	01:51:20
16	Q. When was that?	01:51:27
17	A. I don't remember the exact date.	01:51:29
18	Q. Do you remember the time of year it was?	01:51:34
19	A. No.	01:51:39
20	Q. Do you remember why you were hiring ten	01:51:40
21	people?	01:51:43
22	A. Because I guess Manuel Rodriguez was	01:51:45
23	coming, and Mr. Rick called me to hire ten people	01:51:55
24	the same date. To hire -- he called me in the	01:51:58
25	morning and said, "You have to hire ten people by	01:52:04

1 tonight, and I want them" -- I don't remember if it 01:52:06
2 was 2:00 in the morning or midnight the same day. 01:52:17
3 Q. This has something to do with Manuel 01:52:21
4 Rodriguez? 01:52:25
5 A. Yeah. 01:52:25
6 Q. Who is that? 01:52:25
7 A. Manuel Rodriguez. It's the -- what is it? 01:52:26
8 I guess Rick's boss. 01:52:34
9 Q. Mr. Rodriguez, who you understood to be 01:52:38
10 Mr. Tellstrom's boss, was coming to visit your 01:52:43
11 store; is that right? 01:52:46
12 A. Yes. Uh-huh. 01:52:48
13 Q. Mr. Tellstrom called you that morning and 01:52:49
14 said, "Hire ten people to clean up the store"? 01:52:51
15 A. Uh-huh. 01:52:54
16 Q. To do anything else? 01:52:55
17 A. Just to get everything out of the 01:52:56
18 stockroom. 01:52:58
19 Q. To get everything on the shelves -- 01:52:58
20 A. Yes. 01:53:01
21 Q. -- is that right? 01:53:01
22 A. Uh-huh. 01:53:02
23 Q. Did you hire ten people? 01:53:03
24 A. I think like eight or nine. 01:53:05
25 Q. How did you do that? 01:53:07

1 A. One stayed like a month and a half or 01:54:03
2 something. 01:54:10
3 Q. Do you remember any of their names? 01:54:14
4 A. I think it was -- one was Carmen, Ramon. 01:54:41
5 Q. Is that all you recall? 01:54:55
6 A. Yes. 01:55:00
7 MS. McCLAIN: May I have this marked as 01:55:22
8 next in order, please? 01:55:24
9 (A document was marked as Exhibit 40 01:55:24
10 for identification.) 01:55:36
11 MS. McCLAIN: 01:55:43
12 Q. Ms. Smith is a person that you hired; is 01:55:44
13 that right? 01:55:46
14 A. Yes. 01:55:46
15 Q. Did you consult with anyone with respect 01:55:46
16 to the decision to offer her employment? 01:55:48
17 A. I think it was Mike Cassolotto. 01:55:56
18 Q. Are you guessing? 01:56:01
19 A. It was Mike Cassolotto. 01:56:02
20 Q. So your answer is, yes, you consulted with 01:56:04
21 someone, and the person you consulted with was 01:56:07
22 Mr. Cassolotto; is that right? 01:56:10
23 A. Yeah. 01:56:12
24 Q. Is that because Mr. Cassolotto was your 01:56:12
25 district manager in August of 2006? 01:56:14

1	Q. Was that a decision on your part? Did you	01:59:32
2	get approval from anyone to contact those people?	01:59:36
3	A. No.	01:59:39
4	Q. Did you ever put an advertisement in a	01:59:41
5	newspaper?	01:59:44
6	A. No.	01:59:45
7	Q. Did you have the authority to do that?	01:59:45
8	A. No.	01:59:48
9	Q. How do you know that?	01:59:48
10	A. I never asked them.	01:59:55
11	Q. So how do you know?	02:00:00
12	A. Because I'm -- I don't know if I was not	02:00:02
13	allowed. I wasn't allowed to spend money or where	02:00:06
14	I was going to get the money from to make an	02:00:15
15	advertisement in the newspaper.	02:00:17
16	Q. You believed you didn't have the funds to	02:00:19
17	do an advertisement?	02:00:21
18	A. No.	02:00:22
19	Q. So you called Ms. Smith and said, "Do you	02:00:22
20	want to come to work with me at Dollar Tree,"	02:00:26
21	essentially? Yes?	02:00:29
22	A. Yes.	02:00:31
23	Q. Was Ms. Smith still working at Work World	02:00:31
24	at the time?	02:00:35
25	A. No.	02:00:35

1	A. No.	02:03:35
2	Q. Did you have any one of your assistant	02:03:36
3	managers interview Ms. Smith?	02:03:40
4	A. No.	02:03:41
5	Q. You got her application and then you	02:03:41
6	offered her a job; is that right?	02:03:45
7	A. Yes. But who interviewed her -- it was	02:03:48
8	Rick.	02:03:52
9	Q. Mr. Tellstrom interviewed her?	02:03:53
10	A. Yes.	02:03:54
11	Q. And was that on or around August 28th of	02:03:56
12	2006 that that occurred?	02:04:00
13	A. Um, I don't remember the exact date, but,	02:04:05
14	yeah, it was around there.	02:04:13
15	Q. Is it correct then that you made a	02:04:16
16	recommendation to Mr. Tellstrom that Ms. Smith	02:04:18
17	should be hired, he interviewed her, and agreed	02:04:21
18	with your recommendation?	02:04:24
19	A. Yes.	02:04:25
20	Q. And what was Ms. Smith's starting pay?	02:04:26
21	A. \$14 an hour.	02:04:35
22	Q. Did you make a recommendation as to how	02:04:36
23	much she should be paid?	02:04:39
24	A. I don't remember.	02:04:43
25	Q. Did you talk with Ms. Smith about what the	02:04:45

1	potential pay range would be?	02:04:47
2	A. No.	02:04:48
3	Q. Were you present the day that Ms. Smith	02:04:52
4	first came to work at Dollar Tree?	02:04:56
5	A. Yes.	02:05:04
6	Q. Did you provide Ms. Smith with new-hire	02:05:05
7	paperwork?	02:05:09
8	A. No.	02:05:09
9	Q. Did you discuss anything about her being	02:05:14
10	hired with her on that first day?	02:05:17
11	A. No.	02:05:19
12	Q. There is new-hire paperwork that needs to	02:05:19
13	be completed; correct?	02:05:22
14	A. And Rick did it.	02:05:23
15	Q. Mr. Tellstrom did that?	02:05:26
16	A. Yes.	02:05:27
17	Q. Do you know why Mr. Tellstrom did that?	02:05:30
18	Did he tell you why he was doing that as opposed to	02:05:36
19	you?	02:05:38
20	A. No.	02:05:38
21	Q. Aside from Ms. Smith and the ten people	02:05:41
22	you hired for a very temporary period of time, did	02:05:46
23	you become involved in the hire of any other	02:05:51
24	individuals at store 2262 between July and January	02:05:53
25	when you were store manager?	02:05:59

1	Q. Did you hire Jose Oseguera?	02:11:54
2	A. Yes.	02:12:01
3	Q. Did you look at his application?	02:12:01
4	A. I think I did.	02:12:07
5	Q. Did you interview him?	02:12:08
6	A. Not interview. Just hired him.	02:12:10
7	Q. You looked at his application and you	02:12:13
8	thought it looked fine and you extended an offer;	02:12:15
9	is that right?	02:12:18
10	A. Yeah.	02:12:19
11	Q. How did you know how much to pay him?	02:12:19
12	A. How much?	02:12:21
13	Q. How did you know how much to pay him?	02:12:22
14	A. Minimum wage. That's what we were	02:12:24
15	supposed to pay.	02:12:26
16	Q. Who told you that?	02:12:27
17	A. Rick.	02:12:28
18	Q. Did you understand that you had any	02:12:29
19	discretion to vary from minimum wage?	02:12:31
20	A. What is it?	02:12:33
21	Q. Did you understand that you had any	02:12:34
22	ability, any authority to pay more than minimum	02:12:36
23	wage?	02:12:39
24	A. No.	02:12:39
25	Q. Mr. Tellstrom told you to the contrary,	02:12:40

1	that you did not have such authority; is that	02:12:44
2	right?	02:12:46
3	A. Yes.	02:12:46
4	Q. How long did Mr. Oseguera work for you?	02:12:47
5	A. I think he was working -- when I left, I	02:12:55
6	think he was still there. I don't know.	02:12:59
7	MS. McCLAIN: May I have this marked as	02:13:07
8	next in order, please?	02:13:08
9	(A document was marked as Exhibit 42	02:13:10
10	for identification.)	02:13:24
11	MS. McCLAIN:	02:13:24
12	Q. Is this a performance evaluation you	02:13:24
13	completed with regard to Cynthia Marillo?	02:13:26
14	A. No, I didn't.	02:13:28
15	Q. Do you know who did?	02:13:29
16	A. No.	02:13:31
17	Q. Did you direct your assistant managers to	02:13:32
18	complete performance evaluations?	02:13:34
19	A. No.	02:14:04
20	Q. Do you have any understanding as to who	02:14:05
21	completed this performance evaluation in August of	02:14:06
22	2006?	02:14:09
23	A. No.	02:14:10
24	Q. Was Ms. Marillo an employee of your store	02:14:10
25	in August of 2006?	02:14:14

1	A. Yes.	02:14:15
2	Q. Did you keep track of when performance	02:14:16
3	evaluations were due?	02:14:18
4	A. No.	02:14:20
5	Q. Is it correct that they were due after 30	02:14:21
6	days, after six months, and then annually?	02:14:25
7	A. Yes.	02:14:28
8	Q. How would you know when to get them done	02:14:28
9	if you didn't keep track of it?	02:14:30
10	A. Mr. Rick went to the store and told me to	02:14:31
11	do that because they were asking for a raise so he	02:14:36
12	asked me to do that.	02:14:40
13	Q. Asked you to do what?	02:14:41
14	A. Review.	02:14:42
15	Q. When did Mr. Tellstrom ask you to do one	02:14:45
16	or more reviews?	02:14:47
17	A. I don't remember how many times.	02:14:49
18	Q. This happened on more than one occasion?	02:14:52
19	A. No.	02:14:54
20	Q. At one point, one employee asked you for a	02:14:54
21	raise. You discussed it with Mr. Tellstrom. He	02:14:57
22	said you have to do a review for the employee to	02:14:59
23	get a raise. Is that right?	02:15:02
24	A. No. He asked me to do the reviews.	02:15:03
25	Q. No one said anything about a raise to you?	02:15:06

1 A. They said, and I asked Rick, and he told 02:15:12
2 me to do the evaluation, but that's it. 02:15:17
3 Q. Who are the employees that asked you about 02:15:22
4 a raise? 02:15:24
5 A. Maria. 02:15:25
6 Q. The employee we're looking at, Ms. -- 02:15:27
7 A. Juanna, I think. 02:15:30
8 Q. Pardon me? 02:15:32
9 A. Maria, Juanna. 02:15:33
10 Q. So not Ms. Marillo? 02:15:34
11 A. Huh? 02:15:36
12 Q. Not the employee we're looking at? Not 02:15:37
13 Ms. Marillo? The people you're talking about are 02:15:40
14 Juanna and Maria; is that right? 02:15:42
15 A. Yes. 02:15:44
16 Q. Juanna's last name was Rodriguez? 02:15:44
17 A. Yes. 02:15:48
18 Q. And Marie's something name was what? 02:15:48
19 A. Olvera. 02:15:51
20 Q. Did you perform -- complete a performance 02:15:54
21 evaluation for Juanna and Maria? 02:15:59
22 A. Yes. 02:16:01
23 Q. Did they get a raise? 02:16:01
24 A. No. 02:16:02
25 Q. What was your evaluation? Was it good? 02:16:03

1 How did you evaluate their work performance? 02:16:08

2 A. Above average. 02:16:11

3 Q. Did you fill out a form similar to the one 02:16:15

4 we're looking at in Exhibit 42 -- 02:16:18

5 A. Yes. 02:16:20

6 Q. -- on those two individuals? 02:16:20

7 A. Yes, I think I did. 02:16:21

8 Q. Do you know why they didn't get a raise? 02:16:23

9 A. No. 02:16:25

10 Q. Do you -- are you sure they didn't get a 02:16:27

11 raise? 02:16:30

12 A. Um, no. 02:16:33

13 Q. So you don't know whether they got a raise 02:16:42

14 at that time or not? 02:16:44

15 A. No. 02:16:45

16 Q. One way or the other? 02:16:45

17 A. Yeah. 02:16:46

18 Q. A few seconds ago I said, "Did they get a 02:16:52

19 raise?" You answered, "No." That answer was 02:16:55

20 incorrect? 02:17:00

21 A. What I remember is not getting a raise. 02:17:02

22 Q. But you're not sure about that; is that 02:17:07

23 right? 02:17:11

24 A. No, they didn't get a raise. 02:17:13

25 Q. Did you hire Omar Moya? 02:17:23

1	A. I didn't choose.	02:26:27
2	Q. Nothing prevented you from calling them in	02:26:29
3	and talking to them?	02:26:32
4	A. Not when my boss is telling me, "Just	02:26:38
5	don't waste your time. It's just another body. If	02:26:41
6	it works, it works."	02:26:45
7	Q. Mr. Tellstrom told you not to interview	02:26:47
8	people?	02:26:49
9	A. Yeah.	02:26:49
0	Q. He told you not to waste your time on	02:26:50
1	interviewing people; is that right?	02:26:51
2	A. Yeah.	02:26:53
3	Q. When did he tell you that?	02:26:53
4	A. I don't remember.	02:26:55
5	Q. Did he tell you that more than once?	02:26:56
6	A. Yes.	02:26:58
7	Q. When Mr. Tellstrom interviewed Ms. Smith,	02:27:02
8	did you ask him why he was wasting his time on that	02:27:06
9	process?	02:27:09
0	A. No.	02:27:10
1	Q. Did you point out that he was being	02:27:11
2	inconsistent with what he had told you?	02:27:13
3	A. That was when I first started.	02:27:16
4	Q. Pardon me?	02:27:18
5	A. He hired her when I just first started.	02:27:20

1	the ordering of product?	02:36:49
2	A. Yes.	02:36:50
3	Q. Because you had to submit a computer	02:36:51
4	order; is that right?	02:36:54
5	A. Yes.	02:36:55
6	Q. Did you have vendors delivering to your	02:36:55
7	store?	02:36:59
8	A. Frozen food and milk.	02:37:01
9	Q. Frozen foods and milk?	02:37:03
10	A. Dairy.	02:37:05
11	Q. And did you have responsibilities to check	02:37:06
12	the shipments that the vendors were bringing?	02:37:11
13	A. I never really checked the vendors.	02:37:19
14	Q. Did you have any responsibility for	02:37:22
15	receiving the goods that the vendors were bringing?	02:37:24
16	A. Anybody can receive the vendors.	02:37:28
17	Q. So anyone could have checked off that the	02:37:30
18	vendor was delivering the right amount; is that	02:37:32
19	right?	02:37:34
20	A. Yes.	02:37:34
21	Q. And by "anyone," you mean an hourly	02:37:34
22	associate, an assistant manager?	02:37:39
23	A. An assistant manager.	02:37:41
24	Q. So you don't mean anyone?	02:37:45
25	A. Assistant manager, manager.	02:37:46

1 Q. So you usually didn't have that amount of 02:47:31
2 money? 02:47:33
3 A. No. 02:47:34
4 Q. You had it at this point in time because 02:47:34
5 of the Christmas season? 02:47:36
6 A. At this point, it was Christmas. 02:47:37
7 Q. Once again, then the issuance of this 02:47:38
8 counseling form was not your decision? 02:47:42
9 A. No. 02:47:44
10 Q. Mr. Tellstrom told you to write it out? 02:47:45
11 A. Yes. 02:47:47
12 Q. And he told you what to say? 02:47:47
13 A. Yes. 02:47:48
14 Q. What did Ms. Cape say when you gave it to 02:47:49
15 her? 02:47:52
16 A. Nothing. 02:47:52
17 Q. What did you say to her when you gave it 02:47:53
18 to her? 02:47:55
19 A. Well, Rick told me to -- 02:47:58
20 Q. Did you say, "Um, Lori, Rick Tellstrom 02:47:59
21 told me to give you this"? 02:48:04
22 A. Yes. 02:48:06
23 Q. So you told Lori it wasn't your doing, 02:48:06
24 that it was Mr. Tellstrom's doing? 02:48:08
25 A. I told her that I was supposed to because 02:48:10

1 Is it correct that assistant managers were 03:05:19
2 not to assign overtime to employees without 03:05:22
3 approval from you? 03:05:24
4 A. Nobody should be allowed, not even me. 03:05:26
5 Q. No one should be allowed to sign overtime; 03:05:29
6 correct? 03:05:32
7 A. No. 03:05:34
8 Q. Was it a policy of Dollar Tree that under 03:05:34
9 no circumstances ever, ever, ever could you work 03:05:40
10 overtime -- could anyone work overtime? 03:05:43
11 MR. FIETZ: Objection. Vague. 03:05:46
12 MS. McCLAIN: 03:05:46
13 Q. Did you understand that Dollar Tree had 03:05:47
14 any policy one way or the other about hourly 03:05:48
15 employees working overtime? 03:05:51
16 A. No. 03:05:54
17 Q. You didn't understand that there was a 03:05:58
18 policy either prohibiting it or allowing it? 03:05:59
19 A. As far as I know, you're not supposed to 03:06:04
20 give overtime at Dollar Tree. 03:06:06
21 Q. How do you know that? 03:06:08
22 A. From Mr. Rick. 03:06:10
23 MS. McCLAIN: May I have this marked as 03:06:47
24 next in order, please? 03:06:48
25

1 Q. Do you have any understanding as to who 03:09:16
2 wrote "605 short"? 03:09:18
3 A. No. 03:09:20
4 MS. McCLAIN: May I have this marked as 03:09:33
5 next in order, please? 03:09:35
6 (A document was marked as Exhibit 48 03:09:36
7 for identification.) 03:09:53
8 MS. McCLAIN: 03:09:53
9 Q. Is Exhibit 48 in your handwriting, 03:09:54
10 Mr. Cruz? 03:09:56
11 A. Yes. 03:09:57
12 Q. Did you fill out Exhibit 48? 03:09:57
13 A. Yes. 03:10:02
14 Q. Was it your decision to issue this warning 03:10:12
15 to Mr. Davis? 03:10:14
16 A. No. 03:10:16
17 Q. Whose decision was it, if you know? 03:10:20
18 A. Mr. Rick, um, went to the store and he saw 03:10:26
19 us smoking out -- outside of the store, and I guess 03:10:33
20 he talked to Lori, and he asked me to do that, to 03:10:38
21 write him up. 03:10:45
22 Q. Write him up for what? 03:10:48
23 A. For clocking in and out. 03:10:49
24 Q. Is this for clocking in and out or for not 03:11:04
25 clocking? 03:11:06

1	A. For not clocking.	03:11:07
2	Q. Mr. Davis was taking breaks but not	03:11:08
3	clocking in and out; is that right?	03:11:13
4	A. Yes.	03:11:14
5	Q. Did you know that to be the case?	03:11:14
6	A. No.	03:11:16
7	Q. Had you reviewed his time punches to see	03:11:16
8	that he wasn't punching in and out for breaks?	03:11:20
9	A. No.	03:11:23
10	Q. So this was news to you?	03:11:23
11	A. Yes.	03:11:24
12	Q. Did you talk with Mr. Davis about this?	03:11:28
13	A. I talked to him. Yes.	03:11:35
14	Q. What did you say and what did he say?	03:11:37
15	A. He didn't care.	03:11:41
16	Q. He said, "I'm not going to punch in and	03:11:44
17	out. I don't care what you say to me"?	03:11:46
18	A. He was leaving, I think.	03:11:52
19	Q. He was quitting?	03:11:53
20	A. Yes.	03:11:54
21	Q. Did he quit shortly after this?	03:11:54
22	A. I don't remember.	03:11:56
23	Q. He said to you, "I don't care what you	03:11:56
24	tell me"?	03:11:59
25	A. Yeah.	03:12:00

1 Q. There's always another body, essentially? 03:19:09
2 A. Yes. 03:19:12
3 MS. McCLAIN: May I have this marked as 03:19:22
4 next in order, please? 03:19:23
5 (A document was marked as Exhibit 50 03:19:41
6 for identification.) 03:19:42
7 MS. McCLAIN: 03:19:42
8 Q. Before we move on to 50, Mr. Cruz, would 03:19:42
9 you have a look at Exhibit 49 again? Was 03:19:45
10 Ms. Garcia terminated for leaving early? 03:19:49
11 A. Yes. 03:19:55
12 Q. Did you mark "termination" on this 03:19:55
13 document? 03:19:57
14 A. Yes. 03:19:58
15 Q. So there was another individual who was 03:19:58
16 discharged while you were store manager at 2262, 03:20:00
17 correct, addition to Sandy? 03:20:08
18 A. Yes. 03:20:10
19 Q. Was it your decision to discharge 03:20:10
20 Ms. Garcia? 03:20:12
21 A. Yes. 03:20:14
22 Q. Did you apprise Mr. Tellstrom that that 03:20:14
23 was your decision? Did you tell him, "I'm going to 03:20:25
24 fire her," or did you just do it? 03:20:27
25 A. No. Um, he asked me how many people I had 03:20:29

1 warning (sic), and I said, "What happened with 03:20:39
2 her?" And he said to get rid of her. 03:20:41
3 Q. Did you agree with that? 03:20:43
4 A. It wasn't if I agreed or not. 03:20:45
5 Q. I asked you very recently, "Was it your 03:20:52
6 decision to discharge Ms. Garcia?" And your answer 03:20:58
7 was, "Yes." Is that testimony wrong? 03:21:01
8 A. No. 03:21:04
9 Q. So whose decision was it? 03:21:10
10 A. I can say both. 03:21:13
11 Q. Pardon me? 03:21:14
12 A. Both. 03:21:15
13 Q. You both agreed? 03:21:15
14 A. Yes. 03:21:16
15 Q. Who first came up with the idea that 03:21:16
16 termination was appropriate? 03:21:18
17 A. Mr. Rick. 03:21:19
18 Q. Did you say to Mr. Tellstrom, "I agree 03:21:27
19 with that"? 03:21:30
20 A. I didn't say -- I don't remember if I said 03:21:32
21 that. 03:21:35
22 Q. If you had disagreed, would you have told 03:21:36
23 him? If she was a pretty good employee and you 03:21:38
24 thought she wouldn't do this again and you needed 03:21:44
25 someone, would you have told that to Mr. Tellstrom? 03:21:46

1	A. Yes.	03:31:26
2	Q. And as far as you know, no warning notices	03:31:26
3	were ever issued by your assistant managers; is	03:31:30
4	that right?	03:31:32
5	A. Yes.	03:31:32
6	Q. So when you see one that's issued by an	03:31:33
7	assistant manager, you are surprised; is that	03:31:36
8	right?	03:31:38
9	A. Yes. Especially this.	03:31:38
10	Q. Especially this one? Why?	03:31:39
11	A. I never -- I never see this one before.	03:31:43
12	Also, I don't remember this girl.	03:31:53
13	Q. You don't remember Ms. Sanchez?	03:31:54
14	A. No.	03:31:56
15	Q. Did you keep personnel files at the store?	03:32:00
16	A. Yes.	03:32:04
17	Q. Were they maintained under your	03:32:04
18	supervision?	03:32:07
19	A. Yeah.	03:32:10
20	Q. Yes?	03:32:10
21	A. Yes.	03:32:14
22	Q. Did you actually oversee what was placed	03:32:15
23	in the personnel files?	03:32:19
24	A. No.	03:32:22
25	Q. Were they kept in the office?	03:32:22

1 A. Yes. 03:32:24

2 Q. Did you review the personnel files from 03:32:25

3 time to time? 03:32:28

4 A. No. 03:32:28

5 Q. Is it correct that no assistant manager, 03:32:34

6 when you were a store manager at 2262, said words 03:32:36

7 to the effect of, "I'm going to give so-and-so a 03:32:39

8 warning notice," to you? 03:32:42

9 A. Not that I remember. 03:32:44

10 Q. No one ever indicated to you that they 03:32:46

11 were going to do so? 03:32:48

12 A. Not that I remember. 03:32:51

13 Q. Did any employee ever come to you and say, 03:32:52

14 "That assistant manager just gave me a warning 03:32:56

15 notice and I don't think it's right"? 03:32:58

16 A. I don't remember. 03:33:08

17 MS. McCLAIN: May I have this marked as 03:33:22

18 next in order, please? 03:33:23

19 (A document was marked as Exhibit 53 03:33:26

20 for identification.) 03:34:00

21 MS. McCLAIN: 03:34:10

22 Q. May I see what you have marked as 53? 03:34:11

23 Yes. 03:34:18

24 Ms. Smith was an assistant manager; 03:34:20

25 correct? 03:34:24

1	A. Yes.	03:34:24
2	Q. Looking at Exhibit 53, Ms. Stewart was an	03:34:25
3	employee at 2262?	03:34:32
4	A. Yes.	03:34:35
5	Q. Did you have any understanding that	03:34:35
6	Ms. Smith was issuing this warning notice?	03:34:37
7	A. If I remember right, yes, she told me	03:34:40
8	about it.	03:34:45
9	Q. Ms. Smith told you about this?	03:34:45
10	A. Yes.	03:34:47
11	Q. What did she say?	03:34:47
12	A. That Rick called and said Kim had too many	03:34:48
13	items voids, and she had to issue a counseling	03:34:56
14	form.	03:35:06
15	Q. So Ms. Smith told you that Exhibit 53 was	03:35:08
16	Mr. Tellstrom's idea --	03:35:15
17	A. Yes.	03:35:16
18	Q. -- is that right?	03:35:17
19	A. Yes.	03:35:17
20	Q. Were you surprised that Mr. Tellstrom had	03:35:22
21	asked an assistant store manager to issue a warning	03:35:25
22	notice?	03:35:29
23	A. No.	03:35:31
24	Q. So you thought the assistant store	03:35:34
25	managers had the authority to issue warning notices	03:35:36

1	ever before?	03:39:36
2	A. No, no.	03:39:37
3	Q. How were cashiers trained at your store?	03:39:57
4	How did that happen when a new cashier started	03:40:00
5	working?	03:40:03
6	A. Another cashier was trained.	03:40:07
7	Q. Did you train stockers?	03:40:10
8	A. No.	03:40:15
9	Q. Who trained the stockers?	03:40:16
10	A. I didn't train the stockers, so I would	03:40:21
11	say like, "Oh, just do how you can," I mean.	03:40:25
12	Q. Did anyone train the stockers?	03:40:32
13	A. No.	03:40:34
14	Q. Don't you have to at least tell the	03:40:36
15	stockers how they get the freight from the storage	03:40:38
16	area to the floor? Doesn't somebody have to show	03:40:45
17	them U-boats, for example, or pallets?	03:40:48
18	A. You can't bring pallets out.	03:40:52
19	Q. The stockers use pallets from time to	03:40:54
20	time?	03:40:58
21	A. Huh?	03:40:58
22	Q. The stockers do use pallets from time to	03:40:58
23	time; right? Getting the freight from the truck to	03:41:00
24	the warehouse area or the storage area.	03:41:04
25	A. No. You have -- what is it called? Like	03:41:07

1 they didn't need to be trained; is that right? 03:43:57

2 A. No. 03:43:58

3 Q. Why did you tell me that about Safeway? 03:43:59

4 A. Because that's what he used to say, like 03:44:02

5 just let them -- at the registers, you mean, or -- 03:44:08

6 what was the question? 03:44:14

7 Q. The question was, did you give your store 03:44:15

8 employees training in customer service ever? 03:44:20

9 A. No. 03:44:24

10 Q. Did you say, "We want to wait on customers 03:44:26

11 quickly. We always want to say, 'Welcome to Dollar 03:44:29

12 Tree.' You're not supposed to be nasty to 03:44:36

13 customers"? Did you say anything like that? 03:44:37

14 A. Rick used to say, "Get them in and out," 03:44:40

15 so that's why I have to be on the register. 03:44:47

16 Q. Mr. Cruz, that answer seems to have no 03:44:52

17 relationship to the question posed. Let me try the 03:44:54

18 question again. 03:44:57

19 A. Well, we didn't have customer service. 03:44:57

20 Q. Pardon me? 03:45:00

21 A. We didn't have customer service. 03:45:01

22 Q. You didn't think it was necessary to give 03:45:12

23 your employees any information about how to deal 03:45:16

24 with customers because you were supposed to get 03:45:20

25 them in and out; is that right? 03:45:24

1 Q. Do you agree that you were responsible for 03:50:04
2 developing the skills of store personnel? 03:50:07
3 A. No. 03:50:10
4 Q. Did anyone have that responsibility, in 03:50:11
5 your view? 03:50:13
6 A. No. 03:50:14
7 Q. Do you agree that you were responsible for 03:50:16
8 disciplining store personnel? 03:50:19
9 A. I would say yes. 03:50:25
10 Q. Did you review production reports to 03:50:26
11 evaluate how productive your employees were? 03:50:28
12 A. No. 03:50:33
13 Q. Did you ever look at how many sales were 03:50:33
14 made by any employee? 03:50:36
15 A. No. 03:50:38
16 Q. Did you have the ability to look at such a 03:50:39
17 report? 03:50:41
18 A. What do you mean? 03:50:42
19 Q. Did you have reports that showed who rang 03:50:44
20 up what sale so that you could see how many sales 03:50:47
21 were rung up by an employee in any given time 03:50:52
22 period? 03:50:58
23 A. Not by item. Just by dollars. 03:51:01
24 Q. So you could see what employees rang up in 03:51:02
25 terms of overall dollar volume; is that right? 03:51:05

1	A. Yes.	03:51:11
2	Q. What was that report called?	03:51:12
3	A. I don't remember.	03:51:13
4	Q. Where did you find that report?	03:51:14
5	A. On the closing receipt.	03:51:16
6	Q. On the cash register itself?	03:51:20
7	A. Yeah. When you close the register.	03:51:23
8	Q. Did you look at the accounting of activity	03:51:24
9	on the register?	03:51:30
10	A. No.	03:51:31
11	Q. Did you ever pay any attention to which of	03:51:32
12	your employees was ringing up the most sales?	03:51:34
13	A. No.	03:51:37
14	Q. Did you ever pay any attention to which of	03:51:38
15	your employees was the most efficient in terms of	03:51:40
16	stocking?	03:51:43
17	A. No.	03:51:47
18	Q. Was there any way, in your judgment, to	03:51:47
19	measure how many pieces of goods were stocked by	03:51:49
20	any given employee?	03:51:55
21	A. Mr. Rick told me, but I -- nobody could	03:52:07
22	have done whatever he was saying, how many boxes	03:52:12
23	per hour.	03:52:16
24	Q. The question was, did you have any report	03:52:27
25	or system to measure the productivity of the	03:52:29

1	A. No.	03:53:30
2	Q. Is that right?	03:53:30
3	A. Yes.	03:53:30
4	Q. Do you agree that it was your	03:53:33
5	responsibility to provide leadership and direction	03:53:35
6	to store personnel?	03:53:36
7	A. Yes.	03:53:37
8	Q. Do you agree that it was your	03:53:37
9	responsibility to communicate company policies to	03:53:39
10	sales associates?	03:53:41
11	A. No.	03:53:43
12	Q. Did you ever receive any company policies	03:53:44
13	that you communicated to sales associates?	03:53:47
14	A. No.	03:53:48
15	MS. McCLAIN: May I have this marked as	03:54:34
16	next in order, please?	03:54:35
17	(A document was marked as Exhibit 57	03:54:36
18	for identification.)	03:54:50
19	MS. McCLAIN:	03:54:54
20	Q. Did you ever see a memorandum similar to	03:54:54
21	this one saying, "Please distribute these notices	03:54:56
22	to associates"?	03:55:00
23	A. No.	03:55:05
24	Q. So the whole time that you were a store	03:55:06
25	manager, you never got a memorandum from	03:55:08

1	Q. It changed when you were store manager?	04:00:03
2	A. Yes.	04:00:06
3	Q. Then he became kind of overly directive,	04:00:06
4	in your view?	04:00:10
5	A. Yes.	04:00:11
6	Q. Giving you too many directions; is that	04:00:11
7	right?	04:00:14
8	A. Demanding.	04:00:14
9	Q. Demanding results?	04:00:16
10	A. Yes.	04:00:17
11	Q. That was his job; wasn't it? To demand	04:00:17
12	results from the store managers?	04:00:22
13	A. Demanding -- running my store.	04:00:24
14	Q. Pardon me?	04:00:27
15	A. He would run my store.	04:00:27
16	Q. You thought he was too involved in the	04:00:29
17	running of your store; is that right?	04:00:31
18	A. Yes.	04:00:32
19	Q. You would have liked him to have backed	04:00:33
20	off and given you more discretion?	04:00:36
21	A. Yes.	04:00:38
22	Q. And in what areas did you want more	04:00:38
23	discretion?	04:00:40
24	A. Make decisions.	04:00:43
25	Q. In what areas? About what?	04:00:45

1	A. Everything.	04:00:47
2	Q. Personnel, staffing?	04:00:50
3	A. Yes.	04:00:52
4	Q. And you thought he gave you too many	04:00:52
5	restrictions in those areas?	04:00:55
6	A. Yes.	04:00:56
7	Q. Do you know whether he treated you in a	04:00:58
8	fashion similar to how he treated other store	04:01:01
9	managers in his district, or do you think he	04:01:04
10	treated you differently, or do you know?	04:01:07
11	A. I don't know.	04:01:09
12	Q. Were you the newest store manager in	04:01:09
13	Mr. Tellstrom's district when he became district	04:01:15
14	manager?	04:01:18
15	A. No. I think somebody else --	04:01:34
16	Q. Looking at item ten on Exhibit 39, did you	04:01:38
17	have responsibilities for determining the product	04:01:46
18	mix?	04:01:47
19	A. What number is it?	04:01:50
20	Q. Number ten. For determining where you	04:01:51
21	would place what product.	04:01:57
22	A. Yes.	04:02:12
23	Q. Did you have responsibility for ordering	04:02:12
24	goods?	04:02:16
25	A. Yes.	04:02:18

1 morning and not at night? The question I'm asking, 04:17:46
2 Mr. Cruz, is, if he was scheduled to start at 4:00 04:17:58
3 a.m., what changed that actually got him to start 04:18:01
4 at 10:49 a.m., if you know? 04:18:08
5 A. I don't remember. 04:18:11
6 Q. Would that be something that you would 04:18:13
7 decide? 04:18:15
8 A. No. 04:18:16
9 Q. You wouldn't decide that he should come in 04:18:18
10 at a different time than he was scheduled? 04:18:20
11 A. No. 04:18:22
12 Q. How would that happen? How would somebody 04:18:22
13 know to come in at a different time than what they 04:18:26
14 were scheduled? 04:18:29
15 A. I would say somebody would call me and 04:18:32
16 say, "Change somebody else to this time." 04:18:36
17 Q. Did you publish schedules in advance of 04:18:40
18 the workweek? 04:18:42
19 A. Yes. 04:18:43
20 Q. How did you do that? Did you do them on a 04:18:43
21 piece of paper? Did you write them out? Did you 04:18:48
22 send a memo? How did you do it? 04:18:50
23 A. Did we what? 04:18:52
24 Q. How did you communicate to your employees 04:18:54
25 what the schedule was going to be? 04:18:55

1	A. Mr. Rick.	04:19:55
2	Q. How did Mr. Tellstrom tell Mr. Corina	04:19:58
3	that?	04:20:01
4	A. He will call me to tell him.	04:20:02
5	Q. Is it correct that every time we see a	04:20:05
6	change between the schedule and the actual worked,	04:20:11
7	that Mr. Tellstrom made that decision?	04:20:18
8	A. Yes.	04:20:20
9	Q. Every single time it appears in these	04:20:20
10	schedules?	04:20:22
11	A. Yes.	04:20:23
12	Q. And Mr. Tellstrom called you up and told	04:20:23
13	you that?	04:20:25
14	A. Yes.	04:20:25
15	Q. Did Mr. Corina get overtime for October	04:20:30
16	11th?	04:20:34
17	A. I don't remember.	04:20:39
18	MS. McCLAIN: May I have this marked as	04:20:54
19	next in order, please?	04:20:55
20	(A document was marked as Exhibit 59	04:20:56
21	for identification.)	04:21:17
22	MS. McCLAIN:	04:21:17
23	Q. If you look on the second page of this	04:21:17
24	document, Mr. Cruz, do you see a time period on	04:21:19
25	October 11th that corresponds with Mr. Corina's	04:21:25

1	Q. So this is another example where you	04:23:04
2	didn't make a change that reduced an employee's	04:23:06
3	time so that they wouldn't get overtime; correct?	04:23:11
4	There's no change in these punches; is there?	04:23:19
5	A. No.	04:23:22
6	Q. Does this cause you to reconsider your	04:23:22
7	testimony, Mr. Cruz, that you changed everyone's	04:23:24
8	time so that no one ever got overtime?	04:23:31
9	A. No.	04:23:36
10	Q. You still think that testimony is	04:23:36
11	accurate?	04:23:38
12	A. Yes.	04:23:38
13	Q. Even in the face of now three examples	04:23:39
14	where people got overtime?	04:23:41
15	A. Yes.	04:23:43
16	Q. How do you explain that?	04:23:45
17	A. A mistake.	04:23:52
18	Q. A mistake on your part?	04:23:52
19	A. Yes.	04:23:54
20	Q. Letting that overtime slip by?	04:23:54
21	A. Yes.	04:23:55
22	Q. Did Mr. Tellstrom ever call you and say,	04:23:58
23	"I see that so-and-so got overtime. You didn't	04:24:02
24	change the punch audit report as you should have"?	04:24:07
25	A. Oh, yeah, for sure.	04:24:13

1	store was open?	04:32:26
2	A. What is it?	04:32:27
3	Q. Did you have stocking going on when the	04:32:28
4	store was open?	04:32:29
5	A. Yes.	04:32:30
6	Q. Could your employees stock any time of the	04:32:30
7	day?	04:32:33
8	A. Yes.	04:32:33
9	Q. They didn't have to come in in the middle	04:32:33
10	of the night to stock?	04:32:36
11	A. Yes, they had to. And they can do it	04:32:37
12	during the day.	04:32:39
13	Q. Why do they have to come in in the middle	04:32:39
14	of the night?	04:32:41
15	A. That's Mr. Rick's orders.	04:32:43
16	Q. This actual work time for Ms. Olvera on	04:33:03
17	Wednesday, October 11th, 2006 shows that she worked	04:33:12
18	sufficient hours to get overtime; correct?	04:33:19
19	A. Yes.	04:33:21
20	Q. Because 4:03 to 8:08 is above eight hours,	04:33:22
21	and the 3:22 to 8:03 is above four hours; correct?	04:33:29
22	So the whole day is above eight hours; correct?	04:33:36
23	A. But if I remember --	04:33:38
24	Q. Do you agree with that, that the hours	04:33:39
25	here listed, if shown on the punch audit report,	04:33:42

1 CERTIFICATION OF DEPOSITION OFFICER

2 I, WENDY L. VAN MEERBEKE, duly authorized to
3 administer oaths pursuant to Section 2093(b) of the
4 California Code of Civil Procedure, do hereby
5 certify that the witness in the foregoing
6 deposition was duly sworn by me to testify to the
7 truth in the within entitled cause; that said
8 deposition was taken at the time and place set
9 forth; that the testimony of said witness was
10 reported by me, a Certified Shorthand Reporter and
11 a disinterested person, and was thereafter
12 transcribed by computer under my direction into
13 booklet form; that the witness was given an
14 opportunity to read and correct said deposition and
15 to subscribe to the same.

16 I further certify that I am not of counsel or
17 attorney for either or any of the parties in the
18 foregoing deposition and caption named, nor in any
19 way interested in the outcome of the cause named in
20 said caption.

21 Dated the 1st day of November, 2007.

22 
23 WENDY L. VAN MEERBEKE, CSR 3676
24
25